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Supreme Court, U.S.
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In The

Supreme Court of the United States

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CHRISTIAN WILLIAM LEAR HALE,

Petitioner,

v.

ESTATE OF WILLIAM POWELL LEAR,

Respondent.

◆

On Petition For Writ Of Certiorari To The Supreme Court Of The State Of Nevada

◆

PETITION FOR WRIT OF CERTIORARI

◆

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In Propria Persona

QUESTIONS PRESENTED FOR REVIEW

1. Are NRS 127.160 and the related adoption statutes as applied to the case unconstitutional under the U.S. Constitution, Amendment XIV?

2. Did the Nevada State Court deprive the Petitioner of property without due process, equal protection of law and equal access to the courts under the U.S. Constitution, Amendment XIV?

3. Do the laws of the State of Nevada deprive an adopted person of the right to family relationships and to inherit property from natural family members in contravention of the U.S. Constitution, Amendment IX?

PARTIES TO THE PROCEEDINGS

The parties to the proceedings are:

Petitioner, Christian William Lear Hale;

Respondent, the Estate of William Powell Lear, a trust estate out of Reno, Nevada.

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BRIEF OF THE PETITIONER

OPINIONS BELOW

The decision of the Second Judicial District Court for Washoe County, Reno, Nevada, is not reported. The decision of the Supreme Court of the State of Nevada is not reported.

BASIS FOR SUPREME COURT JURISDICTION

The Supreme Court of the State of Nevada issued its Order on July 6, 2006. On August 28, 2006, it denied a timely filed petition for rehearing. On November 15, 2006, Petitioner filed an Application for Extension of Time to File Petition for Writ of Certiorari in the United States Supreme Court. On November 22, 2006, this Court granted Petitioner's Extension of Time request up to and including January 10, 2007. This Court has jurisdiction pursuant to 28 U.S.C. §1257(a). 28 U.S.C. §2403(b) may apply in this case.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED IN THE CASE

The text of the following constitutional provisions and statutes involved in the case are set out in the Appendix to Petition for Writ of Certiorari (hereinafter referred to as "App."):

Article IV, Section 1, Full Faith and Credit Clause, App. 22

Article IV, Section 2, Interstate Privileges of Citizens Clause, App. 22

Amendment IX, Unenumerated Rights, App. 22

Amendment XIV, Due Process Clause, App. 22

Amendment XIV, Equal Protection Clause, App. 22

NRS 127.160, App. 22-23

NRS 133.020, App. 23

NRS 134.190, App. 23

STATEMENT OF THE CASE

A. The Intent of William Powell Lear, Sr.

William P. Lear, Sr. was the designer and inventor of the Learjet, the automatic pilot, the car radio, the 8-track audio tape and held over 150 patents. On March 9, 1978, William Powell Lear, Sr. (Lear, Sr.) signed his *Last Will and Testament* and created the *William Powell Lear and Moya Olsen Lear Family Trust Agreement* (LFT). App. 24-26 and App. 27-41, respectively. The LFT is a testamentary trust. App. 1 & App. 2. The LFT is also a generation skipping trust. On May 14, 1978, Lear, Sr. died. All of his separate property and one half of the community property that he jointly owned with his wife Moya Olsen Lear became irrevocable under the terms of the LFT, Article FIFTH. App. 30-31. Pursuant to Lear, Sr.'s Last Will and Testament, the LFT was to be administered pursuant to the terms and conditions of the LFT existing at the time of Lear, Sr.'s death. App. 24. Petitioner, Christian William Lear was known and recognized as an heir and *corpus* beneficiary of the LFT at the time of the death of William Lear, Sr.

The LFT created two types of interests, an interest in LFT *corpus* and an interest in the LFT's net income. There are three types of beneficiaries under the LFT: (1) Outright beneficiaries, who have both a 28% vested interest in the LFT *corpus* property and a 28% interest in the net income thereon, (2) net Income beneficiaries, who have a life estate interest in 72% of the LFT's net income only, and (3) *corpus* Remaindermen beneficiaries, who have a *corpus* interest in 72% of the LFT's *corpus* property. Lear, Sr. had seven children, one of whom is William P. Lear, Jr. (William Jr.). Petitioner is the grandson and lineal descendent of Lear, Sr. through William Jr. who is entitled to a specified portion of the net income of the LFT during his lifetime. Upon William Jr.'s death, 10% of the undistributed net income that accrued to William Jr., if any, is to be distributed to Petitioner and his siblings in equal shares. LFT, Article FIFTH(b) states in pertinent part:

> "The net income of the Richard Lear Trust, Valentina Lear Trust, Shanda Lear Bertelli Trust, William P. Lear, Jr. Trust and Patricia Lopez-Pereira Trust, described above shall be paid to the respective primary beneficiary thereof during his or her lifetime. **Upon the death of a primary beneficiary, the principal and undistributed net income of his or her trust shall be paid to his or her lawful issue, in equal shares, or if there be no such issue then living, to grantors' then lawful issue**, except John Olsen Lear, distribution in either case to be made in accordance with the principle of representation." [emphasis added] See LFT Article FIFTH(b), App. 32.

Lear, Sr. died on May 14, 1978. On June 5, 1978, Lear, Sr.'s executrix[1] filed a *Petition for Probate of Will and for Letters Testamentary* in the Second Judicial District Court for Washoe County, Nevada. Petitioner was named and designated in said Petition as one of the LFT's beneficiaries and/or as one of the heirs at law of Lear, Sr. App. 43-44. On June 26, 1978, the lower Court entered an Order admitting Lear, Sr.'s Last Will and Testament to probate. App. 18-20. The June 26, 1978 State District Court order is *res judicata.* As of June 26, 1978, it was known to the Court and to the LFT Trustees that Petitioner was one of the LFT's *corpus* Remaindermen beneficiaries, with a vested right and interest to a share of the LFT's *corpus* property.

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[1] The executrix of the estate of Lear, Sr. was Moya Olsen Lear, the wife of the decedent and co-settlor of the LFT.

Lear, Sr. included one non-blood relative as LFT Outright beneficiary, Joy Pendergraft, now called Joy Surbey (Joy). Lear, Sr. intended to include all of his blood related descendants as LFT beneficiaries, with the exception of his son John Olsen Lear (John). App. 32. John has four daughters Moya Tsatsos (formerly Moya Lear, Jr.), Jill Danielle Lear, Allison Lear and Jacqueline Lear. Lear, Sr. disinherited his son John but intended for John's four daughters to take under the LFT. App. 31-32. Lear, Sr. created a special and separate class of "Outright" beneficiaries, who have a vested right and interest to a specified share of the LFT's *corpus* and to the same proportion of the net income derived therefrom.

In the LFT, Lear, Sr. intended to preclude any beneficiary from being alienated or from otherwise alienating themselves from the LFT. The LFT's anti-alienation clause states in pertinent part:

> "The interest of any beneficiary in the principal or income of this trust shall not be subject to claims of his or her creditors, or others, or liable to attachment, execution or other process of law, and no beneficiary shall have any right to encumber, hypothecate or alienate his or her interest in this trust in any manner, except as

> provided for elsewhere herein." See LFT, article SEVENTH, App. 38.

Lear, Sr. also included an *in terrorem* clause in the LFT. Said clause seeks to exclude and alienate from the LFT any beneficiary who challenges the terms and conditions of said trust. The Trust's *in terrorem* clause states in pertinent part:

> "In the event the beneficiary under this trust shall, singularly or in conjunction with any other person or persons, contest in any court the validity of this trust agreement or shall seek to obtain an adjudication in any proceeding in any court, that this trust agreement or any of its provisions is void, or seek otherwise to void, nullify or set aside this trust agreement, or any of its provisions, then the right of that person to take any interest given to him or her by this trust agreement shall be determined as it would have been determined had the person predeceased the execution of this trust agreement." See LFT, article NINTH, App. 39.

Under the terms and conditions of the LFT, the only way a beneficiary can be removed from the Trust is to violate the terms of the Trust's *in terrorem* clause. Petitioner has not violated the Trust's *in terrorem* clause.

B. The Initial Nevada Probate Proceedings.

Petitioner was born in Geneva, Switzerland in June 1970. At the time of Lear, Sr.'s death, Petitioner was eight years old, a minor child. Petitioner's natural parents were divorced in 1974. By the divorce decree, Petitioner's mother Yolande Lear (Yolande) was granted parental rights over Petitioner and his siblings and became the primary care parent of the three children born during the marriage to William Jr., and resided in Geneva, Switzerland after the divorce.

From June 5, 1978 until the end of August 1983, Petitioner received notice of legal proceedings, trust and estate accountings and inventories. On September 8, 1978, the State District Court appointed Mr. Charles E. Springer, Esq., attorney for all unrepresented minor grandchildren and absent heirs, including Petitioner. It was known by the State Court, by the LFT Trustees and the executrix of Lear, Sr.'s estate that Petitioner's rights and interests to a percentage share of LFT *corpus* property was vested at Lear, Sr.'s death. Mr. Charles E. Springer was discharged as Petitioner's Trust representative by William Jr. on or about October 24, 1979 without notice to Petitioner or his mother.

On January 17, 1983, Harold P. Dayton (deceased), James L. Murphy and Richard B. Rowley (deceased) were appointed by the State District Court as the three new LFT trustees. On September 1, 1983, these three new Trustees engaged and retained the Reno, Nevada law firm of Cooke Roberts & Reese, Ltd. with State court approval. After retaining said law firm, the LFT Trustees ceased to provide or serve Petitioner with any trust communications, accountings, inventories or notices of the trust estate legal proceedings. On April 10, 1991, a decision was entered in U.S. Tax Court ratifying a stipulation agreement between the Estate of Lear, Sr. and the IRS over estate taxes. The LFT is a generation-skipping trust. On November 26, 1991, the lower Court ordered the administration of the Estate of Lear, Sr. to be closed and directed that all of the estate's assets be transferred into the LFT, to be administered in accordance with Lear, Sr.'s Last Will and Testament. App. 17.

C. Petitioner's Swiss Adoption.

In December 1986, Yolande remarried with John Franklin Hale (J. Hale). In June 1988, Petitioner reached the age of majority. On November 26, 1991, Lear, Sr.'s trust estate was closed in Nevada, the LFT took effect and distribution of income began. App. 13-17. On October 8, 1992, being twenty-two years of age, Petitioner was adopted by his stepfather, J. Hale by order of the Court of the Republic and Canton of Geneva, Switzerland. Petitioner did not intend to alienate himself from the LFT by the Swiss adoption and was not given notice that the laws of the State of Nevada would automatically remove and alienate Petitioner from his grandfather's Will and prejudice him from securing and receiving his inheritance interest in the LFT.

D. The Nevada Probate Proceedings Since March 2004.

Petitioner was denied his rights to notice, accountings, due process and equal protection of law from August, 1983 until February, 2004, when he was given notice of LFT Trust proceedings in the Nevada State District Court.

After Petitioner entered his appearance in the State Court proceedings in March 2004, Petitioner sought LFT documents, records, tax returns and accountings for the previous twenty years. Respondent went to great and extreme efforts to continually obstruct Petitioner from obtaining such Trust documents, records and accountings and deprived Petitioner of equal access to the courts. Respondent was continually hostile and sought to remove and wholly alienate Petitioner from the Trust under the pretense of Petitioner having been adopted in Switzerland by John Hale.

On June 9, 2004, LFT Trustees filed a Petition in the lower Court, which sought to arbitrarily limit the rights of the LFT beneficiaries to obtain LFT books, papers, records, documents and information. App. 51 & App. 48-52, generally.

On June 15, 2004, Petitioner filed a Motion for Declaratory Relief to obtain from the State District Court a declaration of the rights and relationships of the parties. Respondent opposed having the Court declare said rights and relationships.

On July 30, 2004, during a Court hearing, Judge Peter I. Breen confirmed and ordered that Petitioner is of the lineage of Lear, Sr. through William Jr. App. 54-55. During that same hearing, and to shield themselves from liability from their gross negligence and breach of trust while administering the LFT, LFT Trustees moved the Court for the complete alienation of Petitioner from the LFT under the pretense that Petitioner had been adopted and that said adoption wholly abrogated Petitioner's rights under the trust estate.

Pursuant to the Court's Order, the parties briefed the matter of Petitioner's adoption and the effects upon his rights and interests to Lear, Sr.'s trust estate. Numerous LFT beneficiaries who received distributions of LFT *corpus* and/or income over the years and had received notice of legal trust estate proceedings then caused unauthorized *ex parte* communications to be sent to the Judge without formally appearing in the case in person or through an attorney of record. App. 56-65 and App. 69-71. The Respondent's attorney was aware of the *ex parte* communications. App. 68. The clear intent of the unauthorized *ex parte* communications to the State District Court Judge was to covertly influence the Judge to change the terms and conditions of the LFT by alienating, prejudicing and abrogating any and all of Petitioner's vested rights and interests to and under the LFT.

E. The Nevada Probate Judgment.

On January 20, 2005, the lower Court entered an Order that determined that Petitioner "has no beneficiary interest in this estate," thereby wholly alienating Petitioner from the LFT and his inheritance from his grandfather. App. 8-9. The lower Court gave no legal authority for its decision and Order. Petitioner timely moved the Court for an Order for Conclusions of Fact and Law to facilitate reasonable appellate review. On April 14, 2005, the lower Court stated its lack of jurisdiction and denied Petitioner's Motion for Conclusions of Fact and Law. App. 12. This impaired Petitioner's ability to appeal the State District Court's final Order.

F. Lower Court Declares LFT *Corpus* Remaindermen Beneficiaries Vested.

Since June 15, 2004, Petitioner and other LFT *corpus* Remaindermen beneficiaries repeatedly moved the Court for a determination of the rights and relationships of the parties. On April 21, 2006, fifteen months after wholly alienating Petitioner from his grandfather's trust estate, the lower Court concluded that "the better policy for Nevada law is the early vesting of interests in a trust" and ordered "that the interest of the Remainder Beneficiaries to the Lear Family Trust described in Article Fifth(b) therein as "lawful issue," is declared to be vested subject to defeasance." App. 10-11. Petitioner's rights and interests, like other *corpus* beneficiaries, had been vested since the death of Lear, Sr.

G. Petitioner's Appeal to the State Supreme Court.

Petitioner timely filed his Opening Brief and his Reply Brief in the Supreme Court of the State of Nevada. In their Answering Brief, Respondent engaged in further misrepresentations. Respondent changed the wording of the LFT instrument to suit their self-serving interests and painted a very different picture than the facts and the law show. Respondent's misrepresentations were craftily designed and intentionally devised to allow Respondent to cite authorities that are unsupported by the facts and the record. This again deprived Petitioner of his rights to and under the LFT without due process and a further deprivation of equal protection of law.

On May 4, 2006, Petitioner filed in the Supreme Court of the State of Nevada his *Supplemental Evidence and Authorities to Opening and Reply Briefs* to notify the Supreme Court that the lower Court Judge changed his prior determination and now determined and ordered the LFT Remaindermen beneficiaries to be vested as a matter of policy and State law. App. 72-74. Petitioner was a Remainderman beneficiary of the LFT with vested interests.

On July 6, 2006, the State Supreme Court determined, in pertinent part:

> "When a class gift has been made to the issue of a named individual, "the [settlor] has said in effect that he wants the property distributed as the law would distribute it if the named person died **intestate**. Accordingly, the normal time for applying the statute of descent or distribution is at the death of the named individual."[2] . . .

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[2] In its Order, the Supreme Court of the State of Nevada also misquoted Article FIFTH(b) of the LFT by citing part of said relevant

(Continued on following page)

After reviewing the language used in the trust agreement, we reject Christian's contention that Lear Sr.'s manifested intent was that all of his natural grandchildren were to inherit regardless of their legal relationship to the named beneficiaries. If this were Lear Sr.'s intent, he could have used the language "bodily issue," "natural issue," "natural heirs" or "issue of the primary beneficiary's body" or a number of other terms that would have expressed an objective intent to provide a benefit to all of the named beneficiaries' natural issue; instead of to the named beneficiaries' "lawful" or "legal" issue. Consequently, we conclude that the language "lawful issue," as employed in Lear Sr.'s trust agreement, refers to legal issue. As such, "lawful issue" would only include those individuals who are the legal issue of the named beneficiaries.

To determine whether Christian's foreign adoption eliminated his legal relationship with Lear Jr., **we turn to Nevada rules of intestate succession** for adopted persons. NRS 134.190 provides that, "[a]n adopted child and his adoptive parents or their relatives shall inherit as provided in NRS 127.160." NRS 127.160, Nevada's adoption statute, provides in part:

LFT provision as: "Upon the death of a primary beneficiary, the principal and undistributed net income of his or her trust shall be paid to his or her lawful issue, in equal shares, or if there ***is*** no such issue then living, to grantors' then lawful issue . . . " App. 2 [emphasis added]. In contradistinction, LFT, Article FIFTH(b) states, in pertinent part: "Upon the death of a primary beneficiary, the principal and undistributed net income of his or her trust shall be paid to his or her lawful issue, in equal shares, or if there ***be*** no such issue then living, to grantors' then lawful issue . . . " App. 32 [emphasis added].

> Upon the entry of an order of adoption, the child shall become the legal child of the persons adopting him, and they shall become his legal parents with all the rights and duties between them of natural parents and legitimate child. By virtue of such adoption he shall inherit from his adoptive parents or their relatives the same as though he were the legitimate child of such parents.
>
> . . . .
>
> The child shall not owe his natural parents or their relatives any legal duty **nor shall he inherit from** his natural parents or **kindred.**
>
> Thus, when a son is adopted by his stepfather, the adoption creates a new legal relationship between the son and the adoptive father replete with rights of inheritance, while completely severing the legal relationship between the adopted son and his natural father, cancelling all rights of inheritance between them, regardless of whether the adopted son is a minor or an adult. An adoption also appears to have a similar effect under Swiss law.
>
> In the eyes of the law, Christian's Swiss adoption severed his familial relationships with his natural father. Thus, based on the aforementioned statutes, we hold that Christian is no longer the lawful issue of Lear Jr. Consequently, Christian does not currently enjoy any rights as a remainderman beneficiary under Lear Sr.'s trust." [emphasis added] App. 1-7.

This Supreme Court determination made it clear that the State of Nevada had voided the Last Will and Trust of Petitioner's grandfather and replaced the will of Lear, Sr. with its own. By this action, the State of Nevada and the courts automatically and completely removed Petitioner from the Trust and alienated Petitioner from his inheritance. This also deprived Petitioner of other Lear family relationships and the right to inherit property from them as well.

H. Petitioner's Petition for Rehearing in the State Supreme Court.

Under the laws of the State of Nevada, Petitioner's foreign (Swiss) adoption automatically alienated and completely took Petitioner's vested rights to inherit not only from his grandfather's trust estate but from any other Lear family member. NRS 127.160. Petitioner filed a petition for rehearing with the Supreme Court of the State of Nevada whereby Petitioner challenged the constitutionality of the laws of the State of Nevada in this regard. App. 75-92. Petitioner argued that the statutory scheme in the State of Nevada violates the due process and equal protection under Amendment XIV of the U.S. Constitution and creates a conflict with other States by depriving Petitioner of his rights to *corpus* property and to family relations under Amendment IX. App. 87-89. Petitioner also argued that the State court should use and apply the "strict scrutiny" standard in the determination of his case. App. 88-89. On August 28, 2006, the Supreme Court of the State of Nevada denied Petitioner's petition for rehearing. App. 21.

SUMMARY OF ARGUMENT

Petitioner was a known and recognized Remainderman beneficiary of the William P. Lear trust estate with vested rights and interests in the *corpus* property of the LFT. Neither the State nor Respondent has a vested property interest in the LFT. The LFT agreement contains a clause prohibiting alienation of any beneficiary from their interest in and rights to the *corpus* of the trust estate. On January 20, 2005, the State District Court entered its order, completely removing and alienating this Petitioner from the LFT and totally depriving this LFT beneficiary of his inheritance from his grandfather under color of Nevada State law. On July 6, 2006, the Supreme Court of Nevada expanded this complete and arbitrary alienation to include any Lear family relationship and the right to inherit from any member of the Lear family without just cause, reasonable justification, compelling government purpose or State interest. *Griswold v. Connecticut*, 381 U.S. 479 (1965).

The State of Nevada voided the Last Will and Testament of Lear, Sr. and discriminated against Petitioner by arbitrarily and capriciously replacing the will of the testator with its own, thereby expropriating and taking Petitioner's vested right to inheritance and giving it to others.

This case is before this Court on an order finding that under Nevada State law, Petitioner's foreign (Swiss) adoption automatically alienated and completely abrogated Petitioner's rights to inherit from his grandfather's trust estate. NRS 127.160. The State law as applied to this case, is a discriminatory statute that automatically results in an unjust confiscation of Petitioner's vested right to *corpus* property under color of state law. See also NRS 134.190. As a result of this State law, the Last Will and trust estate of Lear, Sr. are voided, Lear, Sr. is declared to have died intestate, and Petitioner is unjustly prejudiced and precluded from inheriting from his grandfather and from any other Lear family member. Nevada law leaves Petitioner without recourse and remedy and deprives Petitioner of equal access to the Court to secure his vested right to inherit. The orders of the State court with regards to Petitioner have full force and effect in other States under the Constitution for the United States of America, Article IV, Section 1. This clause of the U.S. Constitution and the orders of the Nevada courts extend the alienation, abrogation, prejudice and confiscation of Petitioner's rights to family relationships and to inherit, by will or otherwise, from his lawful blood relatives to every other State in the United States. U.S. Constitution, Amendments IX & XIV, Article IV, Section 1.

Under New York law, Petitioner would be entitled to inherit from his natural half sister Lorin, who now resides in that State. *Matter of Seaman*, 78 N.Y.2d 451 (1991). Petitioner's natural brother Patrick and Lorin can inherit from each other or will to others as they should desire. The Nevada statutory scheme deprives Petitioner of the privileges and immunities afforded to other citizens under the U.S. Constitution, Article IV, Section 2. See also *Corfield v. Coryell*, 6 Fed. Cas. 546 (1823). Petitioner contends and argues that the Nevada State statutory scheme is unconstitutional and the State court orders are void.

For all these reasons, there is federal jurisdiction in the present case. Accordingly, I urge this Court to reverse the Supreme Court of the State of Nevada.

ARGUMENT

A. Fundamental Right to LFT *Corpus* Property.

The principles of inheritance and testaments established by civilized societies well before the Magna Charta give the right to a person of continuing his property after his death, in such persons as he shall name. 2 Blackstone's

Commentaries on the Laws of England (Bl. Com.) 490. App. 88.

Petitioner has a right to inherit, a fundamental right to property, to justice and to equal protection of law under the Fourteenth Amendment to the U.S. Constitution. See also *In re Slaughter-House Cases*, 83 U.S. 36 (1872), *Civil Rights Cases*, 109 U.S. 3 (1883). See App. 87. Among the rights which belong to all citizens are the rights to own, dispose and inherit property. U.S. Constitution, Article IV, Section 2 & Amendment XIV. Petitioner's vested right to LFT *corpus* property is a fundamental right protected by the U.S. Constitution.

Citing *In re Slaughter-House Cases*, *supra*, this Court recognized that the fundamental civil rights which belong to citizens of all free governments, such as the right to acquire and enjoy property and pursue happiness, are subject only to such just restraints as might be prescribed for the general good. *Ex parte State of Virginia*, 100 U.S. 339 (1879).

Petitioner's rights to the trust estate is also vested as a matter of federal law. The LFT Trustees represent annually to the IRS that the LFT *corpus* is vested in the grandchildren Remaindermen beneficiaries. The courts of the United States have already ruled that beneficiaries, such as Petitioner, who are skip persons under a trust are "vested" beneficiaries. *Comerica Bank, N.A. v. U.S.*, 93 F.3d 225 (6th Cir. 1996); see also 76 Am. Jur. 2d Supp. Trusts, §273. App. 83.

Once the right to Lear, Sr.'s trust estate *corpus* property vested, the right was protected against arbitrary interference and the legislature is not competent to take it away.[3] App. 91. Petitioner could neither alienate himself from the trust estate nor be deprived of his vested *corpus* property right by the foreign adoption decree without due process and equal protection of law. Petitioner vested rights in and to Lear, Sr.'s trust estate and rights to family relations are protected under Amendments IX and XIV to the U.S. Constitution. App. 89-90. No compensation was offered or given Petitioner for this taking.

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[3] "And it would seem that a right cannot be considered a vested right unless it is something more than a mere expectation, and has already become a title, legal or equitable, to the present or future enjoyment of property, or the present or future demand, or a legal exemption from a demand made by another. . . . As Chancellor Kent, speaking of retrospective statutes, says, that such a statute, 'affecting and changing vested rights, is very generally considered in this country as founded on unconstitutional principles, and consequently inoperative and void. . . .' "

"The expectation is not property; it cannot be sold or mortgaged; and it is not in any way taken notice of by the law until the moment of the ancestor's death, when the law of descents comes in, and for reasons of general policy transfers his estate to certain persons to the exclusion of others. It is not until that moment that there is a vested right in the person who becomes heir, to be protected by the constitution. . . ."

"But a vested right of action is property in the same sense in which tangible things are property, and is equally protected against arbitrary interference. Where it springs from contract or from the principles of the common law, it is not competent for the legislature to take it away. Nor can a party by his misconduct forfeit such a right unless steps are taken to have the forfeiture declared in due judicial proceedings. Forfeitures of rights or property cannot be adjudged by legislative act, and confiscations without a judicial hearing and judgment after due notice would be void as not due process of law. . . . A statute which authorizes a party to seize the property of another, without process or warrant, and to sell it without notification to the owner, for the mere punishment of a private trespass, and to enforce a penalty against the owner, is unwarranted and void."

Thomas Cooley, *A Treatise On Constitutional Limitations Which Rest Upon The Legislative Power Of The States Of The United States*, Chapter XI.

B. U.S. Constitution, Amendment XIV: Deprivation of Property Without Due Process of Law.

Soon after their appointment in January 1983, LFT Trustees denied Petitioner the right to any notices or meaningful communications regarding the LFT, notices of asset sales, trust accountings and reports to beneficiaries. Petitioner did not intend to alienate himself from the LFT and the LFT Agreement precludes and prohibits alienation. App. 38. Petitioner was deprived of his right to secure his interest in and to the LFT *corpus* property. Trustees' June 15, 2004 *Petition for Instructions* seeking an order granting them authority to refuse to provide Petitioner and other LFT beneficiaries information and documents pertaining to LFT asset sales, transactions, and accountings that had been previously approved by the Court without notice to Petitioner, was another clear deprivation of Petitioner's right to due process of law. *Mullane v. Central Hanover Trust Co.*, 339 U.S. 306 (1950); App. 48-52. This Court has long recognized that "fairness can rarely be obtained by secret, one-sided determination of facts decisive of rights . . . [And n]o better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it." *Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, at 170-172 (1951).

The discriminatory and self-serving alienation action by Respondent not only deprived Petitioner of his *corpus* property interest in Lear, Sr.'s trust estate, but further deprived Petitioner of property by cutting off Petitioner's rights to have the Trustees answer for breach of trust, or negligent or illegal impairments of vested rights and interests. Petitioner's vested interests were secretly diminished by the sale of LFT *corpus* assets. LFT Trustees engaged in self-dealing and other injurious transactions, and commenced or participated in numerous legal proceedings without giving notice to Petitioner. *Mullane v. Central Hanover Trust Co., supra,* at 313. Respondent deprived Petitioner of honest professional services in violation of Petitioner's rights to property as secured under the Fourteenth Amendment to the U.S. Constitution. App. 22.

Then, the Trust attorney, in a continued pattern of violations of Petitioner's rights to due process of law, assisted and/or knew that certain beneficiaries would send *ex parte* communications to the Judge to secretly influence his decision to remove Petitioner from the LFT. *Anti-Fascist Refugee Committee v. McGrath*, *supra*, at 170. See App. 68, App. 56-65 & App. 69-71.

The lower Court determined that NRS 134.190 and NRS 127.160 were controlling in the case. App. 1-7 & App. 22-23. The application of the statutes works as a deprivation of property without due process of law. NRS 134.190 directs adopted children to look at the provisions of NRS 127.160 in matters of succession. NRS 127.160 provides in relevant part that Petitioner "shall not owe his natural parents or their relatives any legal duty nor shall he inherit from his natural parents or kindred." Petitioner had a vested property interest in Lear, Sr.'s trust estate. As soon as Petitioner was adopted in Switzerland in 1992, Petitioner was automatically removed from the trust estate of Lear, Sr. by operation of NRS 127.160. This State action was given effect without notice and opportunity to be heard. The right to inherit was completely and automatically abrogated and taken after Petitioner's Swiss adoption. In *Mullane v. Central Hanover Trust Co., supra,* this Court stated

> "we must balance the individual interest sought to be protected by the Fourteenth Amendment. This is defined by our holding that "The fundamental requisite of due process of law is the opportunity to be heard." *Grannis v. Ordean,* 234 U.S. 385, 394. This right to be heard has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to appear or default, acquiesce or contest."

While the State Court action to alienate Petitioner from the LFT was initiated by the LFT Trustees in July, 2004, Petitioner's adoption was *res judicata* since 1992. In *Armstrong v. Manzo,* 380 U.S. 545 (1965), this Court stated that the opportunity to be heard "is an opportunity which must be granted at a meaningful time and in a meaningful manner." Petitioner was left without remedy or recourse to secure his vested right in the LFT *corpus* property. In effect, this statutory scheme deprived Lear, Sr. of the right to dispose of his property and this Petitioner to lawfully acquire such property.

By an act of legislative partiality, NRS 127.160 discriminates against and deprives Petitioner, a recognized Trust beneficiary and member of the class of William Jr.'s lawful issue, of his inheritance rights under Lear, Sr.'s trust estate, and deprives him of his property without due process of law. *In re Slaughter-House Cases, supra.* App. 43-44 & App. 54-55. Petitioner's right to LFT *corpus* property is destroyed by NRS 127.160, and by legislative partiality where no State interest exists.

C. U.S. Constitution, Amendment XIV: Deprivation of Property Without Equal Protection of Law.

The XIV Amendment to the U.S. Constitution was ordained to secure equal rights to all persons, and, to insure to all persons the enjoyment of such rights. *Ex parte Virginia*, 100 U.S. 339 (1879). App. 22. Lear, Sr. had a right to will his property to anyone, including Joy, who is not a member of Lear, Sr.'s family. Joy continues to enjoy her vested rights and interests, as an LFT Outright beneficiary. Petitioner's siblings, still enjoy their vested rights and interests as LFT *corpus* Remaindermen beneficiaries under the trust estate. Up to the date of his adoption, Petitioner was held to be the grandson and a family member of Lear, Sr. and a Trust *corpus* beneficiary. App. 43-44. As a result of Petitioner's adoption, however, the lower Court denied Petitioner of any rights under the trust estate by reason of NRS 127.160 and stated that Petitioner's "Swiss adoption severed his familial relationships with his natural father." App. 6. Petitioner's grandfather, Lear, Sr. did will to someone not in his immediate family and not related to him by blood. In contradistinction, as soon as Petitioner was adopted, the lower Court determined that Petitioner "severed familial relationships" with William Jr., applied the rules of intestacy to Lear, Sr.'s trust estate, and Petitioner was removed and denied his rights to inheritance from any Lear family member, including Lear, Sr. App. 2 & App. 4-5. In contradistinction, Joy, as an LFT Outright beneficiary and not a family member nor a blood relative of Lear, Sr. continues to enjoy her vested rights to LFT *corpus* and net income thereon. All the other Outright beneficiaries (28%) have a right to both the net income of the Trust and the Trust *corpus*. The other *corpus* Remaindermen beneficiaries (72%) are also vested since May 14, 1978. Lear, Sr. included Petitioner as LFT *corpus* property beneficiary and stated no contrary intention in his Last Will or in the LFT. App. 24-41. As a matter of Nevada State law, Petitioner was automatically removed from the LFT and from the right to inherit like others. The guarantee of equal protection of law under the U.S. Constitution requires the government to treat similarly situated individuals in similar manner. The lower Court's Order necessarily denies Petitioner of equal protection of law under the Fourteenth Amendment.

Under New York law, Petitioner would be entitled to inherit from his natural half-sister Lorin, who now resides in that State. *Matter of Seaman*, *supra*. In contradistinction, Petitioner's natural brother Patrick and Lorin can devise, give and inherit from each other.

In re Taylor's Estate, 53 A.2d 136 (1947) the Supreme Court of Pennsylvania determined that where a testatrix bequeathed the trust principal and accumulated income to issue of life tenant, on his death, life tenant's grandson who was adopted out and whose natural mother predeceased life tenant, was entitled to inherit under the trust.

In *Yick Wo v. Hopkins*, 118 U.S. 356 (1886), this Court recognized that a law, even fair on its face and impartial in appearance, "if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the constitution. This principle of interpretation has been sanctioned by this court in *Henderson v. Mayor of New York*, 92 U.S. 259 (1875); *Chy Luny v. Freeman*, 92 U.S. 275 (1875); *Ex parte Virginia*, 100 U.S. 339 (1879); *Neal v. Delaware*, 103 U.S. 370; and *Soon Hing* *v. Crowley*, 113 U.S. 703." In its Order of July 6, 2006, the Nevada Supreme Court deviated from and changed the wording of the LFT.[2] This was an unjust and discriminatory determination. App. 2.

In *Ex parte Virginia*, *supra*, this Court clearly stated:

> "In Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty, without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State. This must be so, or the constitutional prohibition has no meaning."

NRS 127.160 therefore creates an invidious discrimination contravening the Equal Protection Clause of the Fourteenth Amendment. The Equal Protection Clause would be a formula of empty words if such conspicuously artificial lines could be drawn.

D. U.S. Constitution, Article IV, Section 1, Full Faith and Credit.

The Orders of the Nevada State courts with regards to Petitioner have full force and effect in other States under the Constitution for the United States of America, Article IV, Section 1. App. 86; see also App. 22. In *Magnolia Petroleum Co. v. Hunt*, 320 U.S. 430 (1943), this Court recognized

> "From the beginning, this Court has held that these provisions have made that which has been adjudicated in one state *res judicata* to the same extent in every other. *Hampton v. McConnell*, 3 Wheat. 234, 235; *Christmas v. Russell*, 5 Wall. 290; *Fauntleroy v. Lum*, 210 U.S. 230, 28 S.Ct. 641; *Kenney v. Supreme Lodge*, 252 U.S. 411, 40

> S.Ct. 371, 10 A.L.R. 716; *Milwaukee County v. M. E. White Co.*, 296 U.S. 268, 56 S.Ct. 229; *Davis v. Davis*, 305 U.S. 32, 40, 59 S.Ct. 3, 6, 118 A.L.R. 1518; *Titus v. Wallick*, 306 U.S. 282, 291, 292 S., 59 S.Ct. 557, 562; *Williams v. North Carolina*, *supra*." See also *Durfee v. Duke*, 375 U.S. 106 (1963).

The Full Faith and Credit Clause and the statute that implements it, 28 U.S.C. §1738, require the judgments of the courts of one State to be given the same faith and credit in another State as they have by law or usage in the courts of the State rendering them. *Morris v. Jones*, 329 U.S. 545 (1947).

In *Magnolia Petroleum Co. v. Hunt*, *supra*, this court explained

> "the clear purpose of the full faith and credit clause to establish throughout the federal system the salutary principle of the common law that a litigation once pursued to judgment shall be as conclusive of the rights of the parties in every other court as in that where the judgment was rendered . . . "

This clause of the U.S. Constitution and the Orders of the Nevada courts extend the alienation, abrogation, prejudice and confiscation of Petitioner's rights to family relationships and to inherit property from his lawful relatives to every other State in the United States. App. 86.

E. U.S. Constitution, Article IV, Section 2, Privileges and Immunities.

The Court Order retroactively deprives Lear, Sr. of his fundamental right to dispose of his property. *Corfield v. Coryell*, *supra*, see also 1 Bl. Com. 134. App. 1-7. In 1862, this right was recognized in part by the Nevada legislature which enacted what became NRS 133.020.[4] This Court retroactively voided Lear, Sr.'s Last Will, trust estate and rights to dispose of his property as he pleased, voided the provisions of NRS 133.020 which were in full force and effect at the time of Lear, Sr.'s death and automatically confiscated and deprived this Petitioner of property without due process of law. App. 88.

As a result of the State Supreme Court's July 6, 2006 Order, Petitioner is precluded from inheriting from any Lear family member, by will or otherwise, and is deprived of the privileges and immunities afforded other citizens under the U.S. Constitution, Article IV, Section 2. App. 22; see also *Corfield v. Coryell, supra.* The Order of Nevada State court is unjust, discriminatory and results in a confiscation under color of state law, and creates a conflict of law. U.S. Constitution, Article IV, Section 2. App. 86. The State is prohibited to deny or abridge Petitioner's right to property, to inherit property and to demand performance of the LFT Trustees, which are among those fundamental privileges and immunities which of right belong to citizens of all free governments. These fundamental rights were secured, previous to the enactment of the Fourteenth Amendment, to citizens of each State in the other States, by the second section of the fourth article of the Constitution, which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." App. 22. *Ex parte State of Virginia, supra.*

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[4] NRS 133.020: "Every person of sound mind, over the age of 18 years, may, by last will, dispose of all his or her estate, real and personal, the same being chargeable with the payment of the testator's debts." App. 23.

In re Slaughter-House Cases, supra, this Court defined "privileges and immunities" in the sense of the Constitution as "the personal and civil rights which usage, the habits of society, written law, and the common sentiment of people have recognized as forming the basis of the institutions of the country." On July 30, 2004, Petitioner was again recognized by the State District Court as being of the class of William Jr.'s lawful issue. See App. 54-55, App. 43-44 & App. 18-20. Among those privileges and immunities, are Petitioner's right in maintaining family relationships and family integrity. *Roe v. Conn*, 417 F.Supp. 769 (M.D. Ala. 1976).

F. U.S. Constitution, Amendment IX: Fundamental Right to Family Relations.

Petitioner's interest in maintaining family relationships free from governmental interference is a fundamental right and any regulation designed to interfere with family relationships must be subjected to a test of whether "a compelling state interest" is advanced by regulation. *Roe v. Conn*, *supra*; see also *Roe v. Wade*, 410 U.S. 113 (1973); *Dunn v. Blumstein*, 405 U.S. 330 (1972). App. 89-90. The State statute, NRS 127.160, however, automatically and totally annihilates Petitioner's family relations without just cause or compelling state interest, and in violation of the U.S. Constitution, Amendment IX. App. 22.

The Nevada Court order and State statute automatically displace, remove and confiscate the free will and acts of other Lear family members. Petitioner is effectively civilly dead as far as the Lear family is concerned. Petitioner has been reduced to an even lesser status than John

Lear who was specifically excluded by the express intent of the testator. App. 32 and App. 89.

While the family is subject to reasonable regulation in the public interest, the state cannot enter the private realm of family life. *Prince v. Com. Of Mass.*, 321 U.S. 158 (1944). In *Griswold v. Connecticut, supra*, at 495, 496, this Court explained:

> "the fact that no particular provision of the Constitution explicitly forbids the State from disrupting the traditional relation of the family – a relation as old and as fundamental as our entire civilization – surely does not show that the Government was meant to have the power to do so. Rather, as the Ninth Amendment expressly recognizes, there are fundamental personal rights such as this one, which are protected from abridgment by the Government though not specifically mentioned in the Constitution."

Citing *United Public Workers v. Mitchell*, 330 U.S. 75 (1947), the Griswold Court further stated that the Ninth Amendment simply lends strong support to the view that the "liberty" protected by the Fourteenth Amendment from infringement by the Federal Government or the States is not restricted to rights specifically mentioned in the first eight amendments and applies to rights not expressly enumerated in the first eight amendments.

Petitioner's right to family relations is fundamental under the Ninth Amendment and is protected from abridgment under the Fourteenth Amendment.

G. Strict Scrutiny.

In his *Petition for Rehearing,* Petitioner raised the necessity of the Court to use the "strict scrutiny" standard in determining the case. App. 88-89. On numerous occasions, this Court recognized that a statute which restricts "fundamental rights" or which contains "suspect classifications" is to be subjected to "strict scrutiny" and can be justified only if it furthers a compelling government purpose and, even then, only if no less restrictive alternative is available. *Regents of the University of California v. Bakke*, 438 U.S. 265, 357 (1978); *San Antonio School District v. Rodriguez*, 411 U.S. 1 (1973); *Williams v. State*, 118 Nev. 536 (2002). "Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling. [citations omitted]." *Griswold v. Connecticut*, *supra*. App. 89. Similarly, equal protection analysis requires strict scrutiny of legislative classification when it impermissibly interferes with the exercise of a fundamental right or operates to the peculiar disadvantage of a suspect class. *Massachusetts Board of Retirement et al. v. Murgia*, 427 U.S. 307 (1976).

H. NRS 127.160 and NRS 134.190 are Unconstitutional as Applied.

NRS 127.160 and NRS 134.190 are unconstitutional as they (1) interfere with and penalize Petitioner's exercise of his constitutional right to inherit property from Lear, Sr. and any other Lear family member, (2) automatically declare the testator, Lear, Sr. to have died intestate in clear contravention of relevant facts, (3) substitute the will of the legislature over the will of the testator, and (4) create a "suspect classification" that discriminates against Petitioner which is not shown to promote a compelling governmental interest. *Shapiro v. Thompson*, 394 U.S. 618 (1969). App. 89. The confiscation of vested rights under color of State law was clearly explained in Chapter XI of Thomas Cooley's authoritative writing, "*A Treatise On*

Constitutional Limitations Which Rest Upon The Legislative Powers of the States of the United States." In quoting Chancellor James Kent, Cooley states: "that such a statute, 'affecting and changing vested rights is very generally considered in this country as founded on unconstitutional principles, and consequently inoperative and void. . . .' " App. 87.

By application of statute, the State of Nevada and the lower Court created an invidious discrimination contravening the Equal Protection Clause of the Fourteenth Amendment and deprived Petitioner of property without due process of law. The State of Nevada arbitrarily replaced the will of Lear, Sr. with its own, and failed, neglected or refused to establish justice as its primary function. See Emer de Vattel, *The Law of Nations*, Book 1, Chap. II, §15 & Chap. IV, §39 & §48. In *Yick Wo v. Hopkins*, 118 U.S. 356 (1886), this Court stated:

> "When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. . . . And the law is the definition and limitation of power. . . . But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a government of laws and not of men.' For the very idea that one

> man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."

The deprivations of property without due process of law and the unequal protection of law imposed upon Petitioner by the Respondent, take their origin in 1983. These continued acts and omissions permeate the proceedings in the State courts, and result in Petitioner being wholly alienated from the LFT, denied of his inheritance and right to inherit from any Lear family member, and denies Petitioner of any right to secure and protect his vested interests under the trust estate of his grandfather, William P. Lear, Sr.

For all these reasons, NRS 127.160 and NRS 134.190, as construed and applied by the Supreme Court of the State of Nevada violate the most basic principles of liberty and justice as secured by the U.S. Constitution and are therefore void. This Court should declare NRS 127.160 and NRS 134.190 unconstitutional as applied.

CONCLUSION

For the foregoing reasons, Petitioner respectfully submits that the decision below should be reversed.

Respectfully submitted,

CHRISTIAN WILLIAM LEAR HALE

IN THE SUPREME COURT
OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF WILLIAM POWELL LEAR.	No. 44768
CHRISTIAN WILLIAM LEAR, Appellant, vs. ESTATE OF WILLIAM POWELL LEAR, Respondent.	

ORDER OF AFFIRMANCE

(Filed Jul. 06, 2006)

This is a proper person appeal from a district court order determining the lawful issue of a primary beneficiary in a probate matter. Second Judicial District Court, Washoe County; Peter I. Breen, Judge.

The parties are familiar with the facts, and we do not recount them except as pertinent to our disposition.

Appellant Christian William Lear Hale (Christian) contends that the district court erred when it determined that Christian was no longer the "lawful issue" of his natural father William P. Lear, Jr. (Lear Jr.), for the purposes of William P. Lear Sr.'s (Lear Sr.) testamentary trust. The district court held that Christian was no longer the lawful issue of Lear Jr. as a result of Christian's foreign adoption.

When interpreting a testamentary devise, courts normally look to the objective intent of the testator. "'An appellate court generally is not bound by the interpretation accorded a will by a district court; instead, the appellate court undertakes an independent appraisal of the will.'"[1] Therefore, we review the district court's interpretation of Lear Sr.'s testamentary trust agreement de novo.

The fifth paragraph of Lear Sr.'s trust agreement provides:

> Upon the death of a primary beneficiary, the principal and undistributed net income of his or her trust shall be paid to his or her lawful issue, in equal shares, or if there is no such issue then living, to grantors' then lawful issue, except John Olsen Lear, distribution in either case to be made in accordance with the principle of representation.

One of the named primary beneficiaries is Lear Jr., Lear Sr.'s natural son and Christian's natural father. This devise appears to bestow a class gift to Lear Jr.'s "lawful issue," to take effect "[u]pon the death of [Lear Jr.]," or, in other words, to take effect at Lear Jr.'s death.

When a class gift has been made to the issue of a named individual, "'the [settlor] has said in effect that he wants the property distributed as the law would distribute it if the named person died intestate. Accordingly, the normal time for applying the statute of descent or distribution is at the death of the named individual.'"[2] This is because "'at the testator's death there are no 'heirs' (in the primary sense) of the living life tenant; and the date of their ascertainment at the latter's death coincides with the date when they are entitled to possession.'"[3]

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[1] *Matter of Estate of Chong*, 111 Nev. 1404, 1408, 906 P.2d 710, 713 (1995) (quoting *Matter of Estate of Meredith*, 105 Nev. 689, 691, 782 P.2d 1313, 1315 (1989)).

The class of Lear Jr.'s lawful issue closes at Lear Jr.'s death. Consequently, the determination of whether Christian is a member of the class of Lear Jr.'s lawful issue must ultimately be made not at Lear Sr.'s death, but at Lear Jr.'s death. Lear Jr. is still alive, so the class has not yet closed. Nonetheless, the parties dispute Christian's current status as Lear Jr.'s "lawful issue," for the purpose of determining whether the trustees owe Christian any duties as a potential remainder beneficiary under the trust. Therefore, we review Christian's current status under the trust, as if the class had closed today, for the purposes of resolving the parties' dispute.

The trust agreement does not define "lawful issue," therefore, we must construe the terms of the trust according to their plain meaning[4] to determine the manifested intent of the settlor.[5] When construing the manifested intent of the settlor, we:

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[2] *In Re Liddle's Estate*, 328 P.2d 35, 42 (Cal. Ct. App. 1958) (quoting LEWIS M. SIMES & CHESTER H. SMITH, THE LAW OF FUTURE INTERESTS, § 732 (2nd ed. 1956)). *See also* Restatement (Second) of Property (Donative Transfers) § 29.1 (1988) (where a gift is made to a class described as the "heirs" of a designated person, or by a similar class gift term, intestate succession statutes are used to determine which persons come within the primary meaning of the class gift).

[3] *Id.* at 43 (quoting William W. Ferrier, Jr., *Gifts to "Heirs" in California*, 26 CAL. L. REV. 413 (1938)).

[4] *See Chong*, 111 Nev. at 1408, 906 P.2d at 713.

> "'may not vary the terms of a will to conform to the court's views as to the true testamentary intent. The question before us is not what the testator actually intended or what [the testator] meant to write. Rather it is confined to a determination of the meaning of the words used by [the testator].'"[6]

After reviewing the language used in the trust agreement, we reject Christian's contention that Lear Sr.'s manifested intent was that all of his natural grandchildren were to inherit regardless of their legal relationship to the named beneficiaries. If this were Lear Sr.'s intent, he could have used the language "bodily issue," "natural issue," "natural heirs," or "issue of the primary beneficiary's body," or a number of other terms that would have expressed an objective intent to provide a benefit to all of the named beneficiaries' natural issue; instead of to the named beneficiaries' "lawful" or "legal" issue. Consequently, we conclude that the language "lawful issue," as employed in Lear Sr.'s trust agreement, refers to legal issue. As such, "lawful issue" would only include those individuals who are the legal issue of the named beneficiaries.

To determine whether Christian's foreign adoption eliminated his legal relationship with Lear Jr., we turn to

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[5] *See* NRS 164.700(2).

[6] *Chong*, 111 Nev. at 1408, 906 P.2d at 713 (quoting *Meredith*, 105 Nev. at 691, 782 P.2d at 1315 (quoting *Jones v. First Nat. Bank*, 72 Nev. 121, 123, 296 P.2d 295, 296 (1956))).

Nevada's rules of intestate succession for adopted persons.[7] NRS 134.190 provides that, "[a]n adopted child and his adoptive parents or their relatives shall inherit as provided in NRS 127.160." NRS 127.160, Nevada's adoption statute, provides in part:

> Upon the entry of an order of adoption, the child shall become the legal child of the persons adopting him, and they shall become his legal parents with all the rights and duties between them of natural parents and legitimate child. By virtue of such adoption he shall inherit from his adoptive parents or their relatives the same as though he were the legitimate child of such parents.
>
> . . . .
>
> The child shall not owe his natural parents or their relatives any legal duty nor shall he inherit from his natural parents or kindred.

Thus, when a son is adopted by his stepfather, the adoption creates a new legal relationship between the son and the adoptive father replete with rights of inheritance, while completely severing the legal relationship between the adopted son and his natural father, cancelling all rights of inheritance between them, regardless of whether the adopted son is a minor or an adult.[8] An adoption also appears to have a similar effect under Swiss law.[9]

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[7] *See Newman v. Wells Fargo Bank, N.A.*, 926 P.2d 969, 973-74 (Cal. 1996) (where child was adopted out of the family, and the terms "child" or "issue" in the testamentary devise were ambiguous as to whether the adopted child was intended to take as a beneficiary under the trust, the court looked to California's rules of intestate succession to resolve the ambiguity).

In the eyes of the law, Christian's Swiss adoption severed his familial relationship with his natural father.[10] Thus, based on the aforementioned statutes, we hold that Christian is no longer the lawful issue of Lear Jr. Consequently, Christian does not currently enjoy any rights as a remainder beneficiary under Lear Sr.'s trust. As for Christian's remaining contentions, we hold they are without merit. Accordingly, we

ORDER the judgment of the district court AFFIRMED.[11]

/s/ Rose C.J.
Rose

/s/ Becker J.
Becker

/s/ Maupin J.
Maupin

/s/ Gibbons J.
Gibbons

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[8] *See* NRS 127.160; NRS 127.190.

[9] Code civil Suisse [Cc] [Civil Code], April 1, 1973, art. 267 (Switz.).

[10] We also note that the purpose of Christian's Swiss adoption was apparently to benefit himself and/or his mother and stepfather by qualifying them for an inheritance that they would otherwise not qualify for. It is disingenuous for Christian to now argue that the adoption that created a new, beneficial legal relationship between himself and his stepfather should not sever the legal relationship with his natural father.

[11] The Honorable James W. Hardesty, Justice, voluntarily recused himself from participation in the decision of this appeal.

/s/ Douglas
Douglas J.

/s/ Parraguirre J.
Parraguirre

cc: Second Judicial District Court Dept. 7, District Judge
Christian William Lear
Cooke Roberts & Reese
Washoe District Court Clerk

IN THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * *

IN THE MATTER OF THE
ESTATE OF WILLIAM P. LEAR,
also known as WILLIAM POWELL
LEAR, W.P. LEAR and BILL LEAR

Deceased.

Case No. PR78-2800

Dept. No. 7

ORDER RE: PENDING MATTERS

(Filed Jan. 20, 2005)

The court citation of *Mabry v. Scott,* 124 P. 2d 659 (1942) was related to persons who were unknown and contingent beneficiaries for a trust. Although not on point as first thought *Mabry* helped to persuade the court that the living and direct beneficiaries of an estate are the people whose interests are to be most considered and who are with standing to be considered in deciding whether to approve a settlement agreement.

The Court determined that because the settlement was in the best interest of the estate as well as the fact that the objectors are in no position to object, the settlement should be approved. *Mabry*, supra although a help to the Court, is unnecessary to the Court's decision. The Motion for Clarification is DENIED.

Christian William Lear (Hale) is not a beneficiary of this estate by reason of his adoption and therefore,

IT IS ORDERED, ADJUDGED AND DECREED that Christian William Lear (Hale) has no beneficiary interest in this estate.

The Motion for Reconsideration of Audit Order is DENIED.

The Motion for Leave to Amend Reply is DENIED.

DATED this 20 day of January, 2005.

/s/ Peter I. Breen
DISTRICT JUDGE

IN THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * *

IN THE MATTER OF THE ESTATE OF WILLIAM POWELL LEAR, also known as WILLIAM P. LEAR, W.P. LEAR and BILL LEAR, Deceased. /	Case No. PR78-2800 Dept. No. 7

ORDER DECLARING INTEREST OF REMAINDER BENEFICIARIES

(Filed Apr. 21, 2006)

Pursuant to the Order of the Court, the Trustees, by and through their counsel, David Reese of Cooke, Roberts, and Reese, Ltd. And William Peterson of Morris, Pickering and Peterson; the Remainder Beneficiaries, Lorin, Lear, Vanessa Bertelli, Jennifer Lear, Valente Bertelli, Jesse Jackson, Luke Jackson, and Chloe Jackson, as remainder beneficiaries of the William Powell Lear Family Trust "B" (the "Trust"), by and through their counsel Bridget Robb Peck of Beesley, Peck & Mateoni, Ltd.; Shanda Lear-Baylor by and through her counsel Patrick James Martin; and Patrick Lear, acting in *propia persona*; filed simultaneous Briefs on March 27, 2006 and simultaneous Reply Briefs on April 6, 2006. The briefing was ordered to be confined to the issue of whether the Remainder Beneficiaries' interest in the Lear Family Trust was vested or contingent. Oral argument on the issue was heard by this Court on April 14, 2006, at which time the above-named parties appeared in *propia persona* or by and through their respective counsel listed above. In the past this

Court has considered the Remainder Beneficiaries as Contingent Beneficiaries

Based upon the Briefs submitted by the parties, the arguments of counsel and parties, and all the papers, pleadings, and orders entered in this matter; and based upon the language of the Lear Family Trust Agreement, the Court concludes that the better policy for Nevada law is the early vesting of interests in a trust; henceforth and hereafter, good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that the interest of the Remainder Beneficiaries to the Lear Family Trust described in Article Fifth (b) therein as "lawful issue", is declared to be vested subject to defeasance.

DATED this 21st day of April, 2006.

/s/ Peter I. Breen
DISTRICT JUDGE

IN THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * *

IN THE MATTER OF THE
ESTATE OF WILLIAM POWELL
LEAR, also known as WILLIAM P.
LEAR, W.P. LEAR and BILL LEAR,

Deceased./

Case No. PR78-2800

Dept. No. 7

ORDER DENYING MOTION FOR CONCLUSIONS OF FACT AND LAW

(Filed Apr. 14, 2005)

Petitioner Christian William Lear moves the Court to state conclusions of fact and law pertaining to the Court's Order dated January 20, 2005. Petitioner also appeals to the Supreme Court of Nevada from the same Order of the Court.

Because this matter is on appeal to the Supreme Court of Nevada, there must be a showing by the moving party that the Second Judicial District Court has jurisdiction to rule in this matter, and until such time, Petitioner's Motion for Conclusions of Fact and Law Regarding January 20, 2005 Court Order is DENIED.

IT IS SO ORDERED.

DATED: This 14 day of April, 2005.

/s/ Peter I. Breen
DISTRICT JUDGE

Case No. 78-2000

Dept. No. 2

IN THE SECOND JUDICIAL
DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * *

IN THE MATTER OF THE ESTATE OF WILLIAM POWELL LEAR, also known as WILLIAM P. LEAR, W.P. LEAR and BILL LEAR, Deceased, /	**ORDER APPROVING FOURTH AND FINAL ACCOUNT AND REPORT OF EXECUTOR, PETITION FOR FINAL DISTRIBUTION, AND FOR APPROVAL OF ATTORNEYS' FEES** (Filed Nov. 26, 1991)

The Fourth and Final Account and Report of Executor, Petition for Final Distribution and for Approval of Attorneys' Fees came on regularly for hearing this date, the Court makes the following findings of fact:

1. That on or about June 26, 1978, Letters Testamentary were issued to MOYA OLSEN LEAR as Executor of the above-entitled Estate; that Petitioner is now and, ever since that date, has been the duly appointed, qualified and acting Executor of said Estate.

2. That the Fourth and Final Account and Report of Executor was filed in this matter for the administration of this Estate for the following periods:

a) *The Accounting Period May 1, 1989 to April 30, 1990.* This account is set forth in the Charge and

Discharge Statement prepared by the accounting firm of Hollander, Freedman, Harrison and Fine, a copy of which is attached as Exhibit A to the Fourth and Final Account and Report of Executor.

b) *The Accounting Period May 1, 1990 to April 30, 1991.* This account is set forth in the Charge and Discharge Statement prepared by the accounting firm of Grant Thornton, a copy of which is attached as Exhibit B to the Fourth and Final Account and Report of Executor.

4. By Order of the Court entered August 23, 1983, the Court approved the preliminary distribution of the majority of the Estate assets to the Lear Family Trust to be held and administered in accordance with the Testamentary Trust created by the last Will of the Decedent. Preliminary distribution of the Estate assets was expressly made subject to the lien of the federal estate tax. The administration of the Lear Family Trust has been accounted for in the reports filed by the testamentary trustees with this Court.

5. The federal estate tax obligation has been paid and the Estate is now in a condition to be closed.

6. All debts and obligations of the Estate, except for the payment of costs of administration, have been paid, or allowance made, and there are no creditors of the Estate. The only unresolved creditor's claim was that filed by the law firm of Shook, Hardy & Bacon, One Kansas City Place, 1200 Main Street, Kansas City, Missouri 64105. The claim was denied by Petitioner. No further action was ever taken by this claimant. The claim is now barred as a matter of law for failure to prosecute in a timely manner under the provisions of NRS 147.130 and Rule 41(e), Nevada Rules of Civil Procedure.

7. Petitioner has performed all duties required of her as executor of the Decedent's Last will as provided by the laws of the Nevada. The Estate is now in a condition to be closed.

8. Under the terms of Decedent's Last will, all assets of the Estate pour over to the inter vivos trust created by written instrument dated March 9, 1978 and referred to as the Lear Family Trust. This trust was bifurcated by order of this Court into two parts, and designated "Trust A" and "Trust B". That distribution should be made to the "Lear Family Trust "B" with James L. Murphy, Harold P. Dayton, and Richard B. Rowley, Trustees.

9. That Petitioner has retained the services of Hill Cassas de Lipkau and Erwin, as the attorneys for the Estate; that said attorneys have expended approximately 20.50 hours in rendering legal services to the Estate for the accounting periods herein referred to; that a reasonable fee for the services of said attorneys is the amount of $3,830.00; that said attorneys have advanced costs and disbursements of $333.48; that an itemized statement of the time spent with the fees charged for rendering services to the Estate is set forth in Exhibit C attached to the Fourth and Final Account and Report of Executor as Exhibit C; that Petitioner has reviewed the question of legal fees with said attorneys and believes that said fees are reasonable.

10. That said attorneys have also rendered legal services on behalf of the Estate in the matter generally referred to as the Canadair royalty dispute; that this royal right is owned one half by Moya Olsen Lear, individually, and one half by the Estate; authority to retain special counsel to represent the Estate in this dispute was conferred

by Order of this Court dated February 7, 1991; pursuant to the agreement of the parties one half of all billings for legal services has been made to Moya Olsen Lear, individually, and one half to the Estate; that Moya Olsen Lear has paid her one half of the billings for legal services; that the Estate's one half of the billings for legal services is itemized in Exhibit D attached to the Fourth and Final Account and Report of Executor; that a reasonable fee for the services of said attorneys rendered on behalf of the Estate is the amount of $28,666.25; that said attorneys have advanced costs and disbursements of $605.33; Petitioner has reviewed the question of legal fees with said attorneys and finds the fees to be reasonable.

10. That all parties who are entitled to notice pursuant to the laws of Nevada have been given notice of this proceeding.

THEREFORE, IT IS ORDERED AND ADJUDGED AS FOLLOWS:

1. The administration of this Estate be brought to a close;

2. The Fourth and Final Account and Report of Executor be, and it hereby is, settled, allowed and approved as filed;

3. All the acts and proceedings of Petitioner as Executor be, and they hereby are, confirmed and approved;

4. The Petitioner be, and she hereby is, authorized and directed to pay to Hill Cassas de Lipkau and Erwin the sum of $32,496.25 as attorneys fees and the sum of $938.81 for costs advanced; and

5. The Petitioner is authorized and directed to transfer all property of the Decedent and of the Estate now known or hereafter discovered to the Trustees of the Lear Family Trust B to be administered in accordance with Decedent's Last Will, and in accordance with the Order of this Court.

DATED this 26 day of November, 1991.

/s/ Charles M. McGee
DISTRICT JUDGE

No. 78-2800 Dept. No. 1

IN THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * *

IN THE MATTER OF THE ESTATE
OF WILLIAM POWELL LEAR, ALSO
KNOWN AS WILLIAM P. LEAR, W.
P. LEAR, AND BILL LEAR,

Deceased. /

ORDER ADMITTING WILL TO PROBATE AND FOR LETTERS TESTAMENTARY

(Filed Jun. 26, 1978)

The Petition of MOYA OLSEN LEAR in the above-captioned matter, praying for the admission to probate of a certain document dated March 9, 1978, which document purports to be the Last Will and Testament of WILLIAM POWELL LEAR, the Decedent above-named, and further praying that Letters Testamentary be issued to Petitioner, who is named in said document as Executor, came on regularly for hearing on the 26th day of June, 1978, before the above-entitled Court, and proof having been to the satisfaction of the Court that notice of the time and place of the hearing had been regularly given as required by law, and no person appearing to contest said Petition, and the Court having heard testimony in support thereof and being fully advised in the premises, makes the following

FINDINGS OF FACT

1. WILLIAM POWELL LEAR, Decedent above-named, died on May 14, 1978, in the City of Reno, County of Washoe, State of Nevada.

2. Decedent at the time of his death was a resident of the County of Washoe, State of Nevada, and left an estate in this state subject to administration.

3. The Will dated March 9, 1978, heretofore filed herein, is the Last Will and Testament of the Decedent, WILLIAM POWELL LEAR.

4. That at the time of executing said Will, Decedent was of full legal age and competence of sound and disposing mind and not acting under duress, menace, fraud or undue influence of any person whomsoever.

5. Decedent's Will designates Petitioner, MOYA OLSEN LEAR as Executor to serve without bond. Petitioner has consented to act in and accept the trust of said office.

6. The assets of the estate of Decedent consist of real and personal property in excess of $60,000 in value, necessitating a general rather than a summary administration thereof.

NOW, THEREFORE, upon the foregoing findings, and upon all papers, pleadings and proceedings heretofore had herein, and having duly deliberated, the Court concludes that Petitioner is entitled to the relief hereinafter granted.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT the document dated March 9, 1978 be admitted to probate as the Last Will and Testament of the Decedent, WILLIAM POWELL LEAR, and that Petitioner, MOYA OLSEN LEAR, be and she hereby is, appointed Executor of the said Will; that Letters Testamentary issued to the said Moya Olsen Lear, without bond, the same having been waived in the Will, upon her taking the statutory oath of office.

DATED this 26th day of June, 1978.

/s/ Grant L. Bowen
DISTRICT JUDGE

RECORDED IN
PROBATE RECORD
Reel 35-407 Page 1142

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF WILLIAM POWELL LEAR.	No. 44768
CHRISTIAN WILLIAM LEAR, Appellant, vs. ESTATE OF WILLIAM POWELL LEAR, Respondent.	

ORDER DENYING REHEARING

(Filed Aug. 28, 2006)

Rehearing denied. NRAP 40(c).

It is so ORDERED.[1]

Rose, C.J.
Rose

Becker, J.
Becker

Maupin, J.
Maupin

Gibbons, J.
Gibbons

Douglas, J.
Douglas

Parraguirre, J.
Parraguirre

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[1] The Honorable James W. Hardesty, Justice, voluntarily recused himself from participation in the decision of this matter.

United States Constitution

ARTICLE IV

Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

AMENDMENT IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Nevada Revised Statutes

NRS 127.160 Rights and duties of adopted child and adoptive parents. Upon the entry of an order of adoption,

the child shall become the legal child of the persons adopting him, and they shall become his legal parents with all the rights and duties between them of natural parents and legitimate child. By virtue of such adoption he shall inherit from his adoptive parents or their relatives the same as though he were the legitimate child of such parents, and in case of his death intestate the adoptive parents and their relatives shall inherit his estate as if they had been his natural parents and relatives in fact. After a decree of adoption is entered, the natural parents of an adopted child shall be relieved of all parental responsibilities for such child, and they shall not exercise or have any rights over such adopted child or his property. The child shall not owe his natural parents or their relatives any legal duty nor shall he inherit from his natural parents or kindred. Notwithstanding any other provisions to the contrary in this section, the adoption of a child by his stepparent shall not in any way change the status of the relationship between the child and his natural parent who is the spouse of the petitioning stepparent.
[16:332:1953]

NRS 133.020 Sound mind; age. Every person of sound mind, over the age of 18 years, may, by last will, dispose of all his or her estate, real and personal, the same being chargeable with the payment of the testator's debts.
[1:61:1862; B § 812; BH § 3000; C § 3071; RL § 6202; NCL § 9905] – (NRS A 1957, 360)

NRS 134.190 Adopted child. An adopted child and his adoptive parents or their relatives shall inherit as provided in NRS 127.160.
[Part 16:332:1953]

Last Will and Testament
of
WILLIAM P. LEAR

I, WILLIAM P. LEAR, of Reno, Washoe County, Nevada, being of sound and disposing mind and not acting under any duress, coercion, misrepresentation or fraud, do declare and publish this my Last Will and Testament, hereby revoking any and all Wills and Codicils to Wills heretofore executed by me.

I.

I direct that all my just debts and expenses of last illness and funeral be paid as soon after my death as is practical.

II.

I give, devise and bequeath all the rest, residue and remainder of my estate of whatsoever nature and wheresoever situated to Sam Auld, Milton Weilenmann and Fran D. Jabara, as Trustees under that certain revocable trust executed by me and my wife Moya as Trustors and by the said Trustees on the 9th day of March, 1978, and entitled "The William P. Lear and Moya Olsen Lear Family Trust Agreement". The property passing hereunder shall be added to the property held in trust by said Trustees and shall become a part thereof, and administered and disposed of in accordance with the terms and conditions of said trust instrument as they exist at the time of my death.

III.

I hereby appoint my wife, Moya Olsen Lear, as the Executrix of this Will, to serve without bond. In the event she predeceases me or cannot act as Executrix, I appoint Sam Auld as Executor to serve without bond.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of March, 1978.

/s/ Wm. P. Lear
WILLIAM P. LEAR

The foregoing instrument, consisting of two (2) pages, was on the date hereof by the said WILLIAM P. LEAR, the maker hereof, signed and executed in our presence, and at the time of such subscription, said instrument was by the said testator declared to be his Last Will and Testament and at his request, in his presence, and in the presence of each other, we have subscribed our names as witnesses thereto.

Milton Weilenmann residing at 833 17th Ave
Salt Lake City, Utah

Samuel H. Auld residing at 1324 Dartmouth Drive
Reno, Nevada

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

Then and there personally appeared the within named Milton L. Weilenmann and Samuel H. Auld who, being duly sworn, depose and say: That they witnessed the execution of the within Will of the within named testator, WILLIAM P. LEAR; that said testator subscribed said Will and declared the same to be his Last Will and Testament in their presence; that they thereafter subscribed the same as witnesses in the presence of said testator and in the presence of each other and at the request of said testator; that said testator at the time of the execution of said Will appeared to them to be of full age and of sound mind and memory, and they make this affidavit at the request of said testator.

/s/ Samuel H. Auld

/s/ Milton Weilenmann

Subscribed and sworn to before
me this 9th day of March, 1978.

/s/ Maxine R. Zimmerman
Notary Public

	[SEAL]	MAXINE R. ZIMMERMAN Notary Public – State of Nevada Washoe County My Commission Expires Jan. 29, 1980

THE WILLIAM P. LEAR AND MOYA OLSEN LEAR FAMILY TRUST AGREEMENT

William P. Lear and Moya Olsen Lear, of Reno, Nevada, as grantors, and Sam Auld, Milton Weilenmann and Fran D. Jabara, as co-trustees, hereinafter referred to as "Trustees", agree as provided in this trust agreement.

FIRST: That no consideration was or will be given by the Trustees for the conveyance or transfer to them of any of the trust estate; that the Trustees accept such title to the trust estate as is conveyed or transferred to them hereunder, without liability or responsibility for the condition or validity of such title; and that the trust estate has been or will be conveyed or transferred to the Trustees, in trust, with power of sale, for the uses and purposes and upon the trusts herein provided.

SECOND: The grantors specifically reserve and grant the following rights and privileges:

(a) Any person may, from time to time, with the consent of the Trustees, by conveyance, assignment, transfer, or will, add property of any kind to the trust estate, or any part thereof, which shall thereupon be subject to all the terms and provisions of this trust.

(b) The grantors, during their joint lifetimes, may revoke this trust instrument in whole or in part or amend or change any provision of this trust with respect to the community property by an instrument in writing signed by the grantors and delivered to the Trustees, and with respect to the separate property, by an instrument in writing signed by the grantor who contributed that property to the trust, delivered to the Trustees. On revocation, the Trustees shall deliver to the grantors all or the designated portion of the community property trust assets, which shall continue to be the community property of the grantors and which shall be held and administered as community property by them. On revocation with respect to the separate property, the Trustees shall promptly deliver to the contributing grantor all of the designated portion of that property. If this trust agreement is revoked with respect to all or a major portion of the assets subject to this trust agreement, the Trustees shall be entitled to retain sufficient assets to reasonably secure payment of liabilities lawfully incurred by the Trustees in the administration of the trust, including Trustees' fees that have been earned unless the grantor shall indemnify the Trustees against loss or expense.

(c) In the event of the death of one of the grantors, or during the period of his or her incompetency, the surviving or other grantor shall have the aforesaid powers, subject however, to the limitation that they shall apply to only the portion of the trust estate belonging to the surviving grantor.

THIRD: The grantors declare that all of the property enumerated in Schedule "A" consisting of Lear Avia Corporation, Leareno Developments, Inc. capital stock and other assets and Schedule "B" constitutes the community property and separate property, respectively, of the grantors. It is the intention of the grantors that all community property, and all additions to the trust of community property of the grantors shall be held as the community property of the grantors under the community property laws of the State of Nevada. No provisions of this trust agreement shall change the character of such property or the rents, issues and profits thereof to other than community property of the grantors.

The Trustees shall pay to or apply for the benefit of the grantors whose separate property was transferred to this trust, the net income of that grantor's separate property of this trust, in monthly installments.

If the Trustees consider the net income of the separate property insufficient, the Trustees shall pay to or apply for the benefit of the grantor whose separate property was transferred to this trust, as much of the principal of that grantor's separate property of this trust as is necessary in the Trustees' discretion for the proper health, support and maintenance of that grantor and his spouse, in accordance with their accustomed manner of living at the date of this trust instrument.

FOURTH: (a) The Trustees shall pay or reserve sufficient trust funds to pay all expenses of management and administration of the trust estate; including, compensation of the trustees. The remaining income shall be and is hereinafter referred to as "net income".

(b) The Trustees shall pay to, or apply for the grantors' benefit, the entire net income of the community property of this trust in monthly or other convenient installments.

(c) If the Trustees consider the net income of the community property insufficient, the Trustees may pay to or apply for the benefit of the grantors such amounts from community property principal of the trust estate, up to the whole thereof, as the Trustees may from time to time deem necessary and advisable for the benefit of said grantors or their survivor.

(d) Upon the death of the first grantor, the fund of the surviving grantor shall be revocable and shall be administered by the Trustees subject to the written instructions of the surviving grantor. The balance of the trust estate belonging to the deceased grantor, shall be irrevocable and shall be administered subject to the following terms and conditions:

(e) The Trustees may, in the Trustees' discretion, pay out of this fund, from either income or principal or partially from both, the costs and expenses of the grantors' last illness and of his or her funeral and burial, unless other adequate provisions shall have been made therefor.

(f) The Trustees shall pay any death taxes, costs and claims as determined to be applicable to the deceased grantor's share of the trust estate and any death taxes, costs and claims as determined to be applicable through any other portion of the grantors' estate, however held and passing, unless other adequate provisions shall have been made therefor.

(g) The Trustees shall provide the surviving grantor during his or her lifetime, with the right to possess, occupy, use, without charge, the principal residence used by both grantors immediately prior to the first grantor's death.

FIFTH: Upon the death of the first grantor, the trust estate shall be divided into two equal parts, one known as the William P. Lear Fund and the other known as the Moya Olsen Lear Fund. The fund of the surviving grantor shall be revocable and shall be administered by the trustees subject to the written instructions of the surviving grantor. The balance or other one-half of the trust estate belonging to the deceased grantor, shall be irrevocable and shall be administered subject to the following terms and conditions:

(a) The trustees shall divide the said trust estate in the following manner:

(1) Twenty (20%) per cent of said trust estate shall be set aside for primary benefit of grantors' son, David Richard Lear, to be known as the David Richard Lear Trust.

(2) Twenty (20%) per cent of said trust estate shall be set aside for the primary benefit of grantors' daughter, Valentina Moya Lear, to be known as the Valentina Moya Lear Trust.

(3) Sixteen (16%) per cent of said trust shall be set aside for the primary benefit of grantors' daughter, Shanda Lear Bertelli, to be known as the Shanda Lear Bertelli Trust.

(4) Ten (10%) per cent of said trust estate shall be set aside for the primary benefit of grantors' son, William P. Lear, Jr., to be known as the William P. Lear, Jr. Trust.

(5) Six (6%) per cent of said trust estate shall be set aside for the primary benefit of grantors' daughter Shirley Patricia Lopez-Pereira Trust.

(6) Fifteen (15%) per cent of said trust shall be distributed outright to each of the following children of John Olsen Lear in the following percentages:

(a) Five (5%) per cent to each Moya Lear and Jill Danielle Lear.

(b) Two and one-half (2 ½%) per cent each Allison Lear and Jacqueline Lear.

(7) Ten ~~(10%)~~ [changed to 7%] per cent of said trust estate shall be distributed outright to Joy Pendergraft, sister of grantor Moya Lear.

(8) Six (6%) per cent of said trust shall be distributed outright to grantors' daughter, Mary Louise Ellenberger.

(b) The net income of the Richard Lear Trust, Valentina Lear Trust, Shanda Lear Bertelli Trust, William P. Lear, Jr. Trust and Patricia Lopez-Pereira Trust, described above shall be paid to the respective primary beneficiary thereof during his or her lifetime. Upon the death of a primary beneficiary, the principal and undistributed net income of his or her trust shall be paid to his or her lawful issue, in equal shares, or if there be no such issue then living, to grantors' then lawful issue, except John Olsen Lear, distribution in either case to be made in accordance with the principle of representation.

(c) In the event that either of the children of John Olsen Lear, Joy Pendergraft or Mary Louise Ellenberger should die prior to receiving distribution of principal under Article FIFTH (6), (7) and (8), then the share of the deceased beneficiary shall be delivered to the lawful issue of such deceased beneficiary, and if there be no such lawful issue, then living, to grantors' then lawful issue, except John Olsen Lear, distribution in either case to be made in accordance with the principle of representation.

(d) On the death of the surviving grantor, the Trustees shall distribute the surviving grantor's share of the trust in the manner described above unless the surviving grantor instructs the Trustees to the contrary.

SIXTH: In addition to all other powers and discretions granted to or vested in the Trustees by law or by this instrument, the Trustees shall have the following powers and discretions:

(a) Subject to the provisions of Article SIXTH (e)(1 & 2) to do all such acts, take all such proceedings and exercise all such rights and privileges in the management of the trust estate as if they were individuals and the absolute owners thereof, including, without limiting the generality of the terms, the following:

(1) To grant, bargain, sell, convey, exchange or convert any real or personal property;

(2) To lease for terms either within or beyond the duration of this trust;

(3) To enter into oil, gas and other mineral leases, on such terms they may deem proper, and to enter into any pooling, unitization, repressurization, community and other types of agreements relating to the development, operation and conservation of mineral properties;

(4) To assign, partition, divide, subdivide and improve any properties;

(5) To loan, reloan, invest and reinvest the trust estate or any part thereof;

(6) To participate in foreclosures, reorganizations, consolidations, mergers, liquidations, pooling agreements and voting trusts, assent to corporate sales and other acts, and, in connection therewith, to deposit securities with

and transfer title to any protective or other committee under such terms as the Trustees may deem advisable;

(7) To procure and carry at the expense of the trust estate insurance of such kind and in such form and amount as the Trustees deem advisable to protect the Trustees and the trust estate against any hazard;

(8) To borrow money for any trust purpose, hypothecate the trust estate or any part thereof and replace, renew and extend any encumbrance thereon, upon such terms, conditions and security as may be determined by the Trustees and to pay loans or other obligations of the trust estate, as the Trustees in their discretion deem advisable.

(b) In investing, reinvesting, purchasing, acquiring, exchanging and selling property for the benefit of the trust, the Trustees shall exercise the judgment and care, under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, the Trustees are authorized to acquire every kind of property, real, personal or mixed, and every kind of investment, corporate obligations of every kind and stocks, preferred or common, which men of prudence, discretion and intelligence acquire for their own account.

(c) Notwithstanding the provisions of that certain act passed by the Legislature of the State of Nevada, known as the Revised Uniform Principal and Income Act, N.R.S. § 164.140-164.370, inclusive, to the contrary, the Trustees shall have the power, exercisable in the Trustees' discretion, to determine what is principal or income of the trust estate and to apportion and allocate receipts and expenses and other charges between those two accounts, including also the power to charge in whole or in part against principal, or to amortize out of or charge forthwith to income, premiums paid on the purchase of bonds or other obligations. The Trustees shall not be required to establish a reserve for depreciation or to make charges against income therefor, but may do so if the Trustees in the Trustees' discretion so determine such reserve and charges to be established on such assumptions and in such amounts as the Trustees shall determine.

No inference of imprudence or partiality shall arise from the fact that the Trustees, in exercising the discretion conferred hereon the Trustees shall have allocated a receipt or expenditure in a manner contrary to any provision of the said Nevada Revised Uniform Principal and Income Act. Except insofar as the Trustees shall exercise the discretion conferred on the Trustees and except as otherwise provided in this trust instrument matters relating to principal and income shall be governed by the Revised Uniform Principal and Income Act from time to time existing.

(d) To manage, control, sell, convey, exchange, partition, divide, subdivide, improve, repair; to grant options and to sell upon deferred payments; to lease for terms within or extending beyond the duration of these trusts for any purpose including exploration for and removal of gas, oil or other minerals; to enter into community oil leases.

(e)(1) To borrow money for any trust purpose from any person including the Trustees upon such terms and conditions as the Trustees may deem proper, and to obligate the trust estate for repayment; to encumber the trust estate or any of its property by mortgage, deed of trust, pledge or otherwise, using such procedures to consummate the transaction as the Trustees may deem advisable; to lend money of one trust to any other trust created hereunder or to any other person, including but not limited to the Trustees, upon such terms as the Trustees may deem advisable; provided that any loan to or from the Trustees shall bear a reasonable rate of interest and shall be adequately secured; to institute, compromise and defend actions and proceedings.

(2) In particular, the Trustees shall continue to hold and retain as part of the trust assets all shares of capital stock of LEAR AVIA CORPORATION, LEARENO DEVELOPMENT, INC. and RENO/STEAD LAND COMPANY, or their successor in interest which grantors may own at time of the death of the grantors. The management of the said corporations and the conduct of their operations may be delegated to such persons as the Board of Directors of said corporation shall direct.

(3) The grantors specifically authorize and empower the Trustees to continue the design and development of the Lear Fan aircraft, or derivatives or modifications thereof, or any other aircraft, with a view to the successful completion and marketing of such aircraft. For the purpose of achieving those goals, notwithstanding anything to the contrary contained herein, the Trustees are empowered and authorized to hold and retain the shares of capital stock if Lear Avia Corporation and Leareno Developments, Inc. and are not required to

distribute said shares until these goals are achieved. The Trustees shall have complete discretion in these matters and shall not be liable to any beneficiary under this trust for losses resulting from the retention of any of said shares or the shares of any such successor in interest.

(f) To vote, in person or by proxy, at corporate meetings of the above-named corporations, or any other corporation hereafter formed by the grantors, any corporate shares in this trust; to participate in or consent to any voting trust, reorganization, dissolution, liquidation, merger or other action affecting any such shares or any corporation which has issued such shares to participate in or consent to the sale, lease, mortgage, or other disposition of any property by or to any such corporation; and to take any other action which the Trustees deem advisable in connection with any such shares or any such corporation.

The Trustees are expressly authorized to hold and retain such shares, and to continue to hold, manage and operate any property, business or enterprise received or acquired at any time hereunder, as long as in the Trustees' discretion they elect to do so, the profits and losses therefrom, if any, to insure to or be chargeable against the trust estate and not the Trustees.

(g) To register or qualify for exemption from registration shares of stock in any corporation with any agency or agencies of any government (including but not limited to the Securities and Exchange Commission of the Government of the United States); to participate in any such registration or qualification for exemption from registration; to apply for and to secure the approval of any agency of any government with respect to the sale of such shares; to sell such shares to the public or to private investors or to participate in the public or private sale of such shares; to enter into an agreement with respect to any such sale with any broker, investment banker or underwriter; to make such representations, warranties and indemnities as are customarily given by a selling stockholder to any broker, investment banker or underwriter in connection with a firmly underwritten offering; to incur and to pay all expenses necessary or appropriate in connection with any such registration, qualification or sale; and to take all other action necessary or appropriate in order to consummate any such sale.

(h) In addition to the foregoing powers granted to the Trustees, the Trustees shall have the powers set forth in N.R.S. 163.265 to 163.410, inclusive, which are incorporated herein by reference so long as said provisions do not conflict with the other Trustees' powers set forth above.

SEVENTH: The interest of any beneficiary in the principal or income of this trust shall not be subject to claims of his or her creditors, or others, or liable to attachment, execution or other process of law, and no beneficiary shall have any right to encumber, hypothecate or alienate his or her interest in this trust in any manner, except as provided for elsewhere herein. The Trustees may, however, deposit in any bank designated in writing by a beneficiary to his or her credit, income or principal payable to such beneficiary.

EIGHTH: Unless sooner terminated in accordance with other provisions of this trust agreement, all trusts or shares thereof created under this trust agreement shall terminate (a) twenty-one (21) years after the death of the last survivor of the grantors, or (b) twenty-one (21) years after the death of the last survivor of the grantors' issue and grandchildren living on the date of the death of the first grantor to die, whichever shall later occur. The principal and undistributed income of a terminated trust or share thereof shall be distributed to the then income beneficiaries of that trust or share in the same proportion that the beneficiaries are entitled to receive income when the trust or share terminates. If at the time of such termination the rights to the income are not fixed by the terms of the trustor's share, distribution under this clause shall be made, by right of representation, to the persons who are entitled or authorized, in the Trustees' discretion to receive trust payments.

NINTH: In the event the beneficiary under this trust shall, singularly or in conjunction with any other person or persons, contest in any court the validity of this trust agreement or shall seek to obtain an adjudication in any proceeding in any court, that this trust agreement or any of its provisions is void, or seek otherwise to void, nullify or set aside this trust agreement, or any of its provisions, then the right of that person to take any interest given to him or her by this trust agreement shall be determined as it would have been determined had the person predeceased the execution of this trust agreement.

The Trustees are hereby authorized to defend, at the expense of the trust estate, any contest or other attack of any nature of this trust of any provisions of this trust agreement.

TENTH: During the lifetime of either grantor, Trustees shall account only to the grantors or to the surviving grantor, and their written approval shall be final and conclusive in respect to transactions disclosed in the account as to all beneficiaries of the trust including unborn and contingent beneficiaries. After the death of both grantors, Trustees shall render an accounting to the beneficiaries from time to time, but not less frequently than every five years after any prior accounting, and shall render such an accounting at the time of final distribution of the trust estate, regarding the transactions of the trust or any share thereof created in this trust agreement.

ELEVENTH: The validity, construction and administration of this trust shall be determined by reference to the laws of the State of Nevada.

TWELFTH: The Trustees may resign at any time. Such resignation shall be effective after delivery of thirty (30) days written notice to the income beneficiaries of all the trust established by this trust agreement. The Trustee who has resigned shall have no duty, obligation or right to appoint a successor Trustee. A successor Trustee shall be appointed by the surviving Trustees. In the event of the death, incompetence or disqualification of a Trustee, a successor Trustee will be appointed by the surviving Trustees.

The Trustees shall receive reasonable compensation for services rendered in connection with the administration of this trust.

In Witness Whereof the said grantors and Trustees have hereunto set their hands the day and year hereinabove first written. [MARCH 9, 1978]

/s/ Wm. P. Lear
William P. Lear

/s/ Moya Olsen Lear
Moya Olsen Lear

Trustors

/s/ Sam Auld
Sam Auld

/s/ Milton Weilenmann
Milton Weilenmann

/s/ Fran D. Jabara
Fran D. Jabara

Trustees

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

On this 9th day of March, 1978, personally, appeared before me William P. Lear and Moya Olsen Lear who acknowledged that they executed the above instrument.

/s/ Maxine R. Zimmerman
Notary Public

[SEAL]	MAXINE R. ZIMMERMAN Notary Public – State of Nevada Washoe County My Commission Expires Jan. 29, 1980

No. __________ Dept. No. 1

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

* * *

IN THE MATTER OF THE
ESTATE OF WILLIAM
POWELL LEAR, ALSO
KNOWN AS WILLIAM P. LEAR,
W.P. LEAR, AND BILL LEAR,

Deceased. /

PETITION FOR PROBATE OF WILL AND FOR LETTERS TESTAMENTARY

(Filed Jun. 5, 1978)

COMES NOW Petitioner, MOYA OLSEN LEAR, and alleges:

1. WILLIAM POWELL LEAR, the decedent above-named, died on May 14, 1978, in the City of Reno, County of Washoe, State of Nevada.

2. Decedent at the time of his death was a resident of the County of Washoe, State of Nevada and left an estate in this state subject to administration.

3. Decedent left a Will dated March 9, 1978, which was heretofore filed in the Office of the Clerk of the above-entitled Court. Petitioner is informed and believes, and therefore states, that said Will is the Last Will and Testament of the Decedent, and is herewith presented to the Court for probate.

4. A full, true and correct copy of said Will is hereto annexed as Exhibit "A" and hereby by reference incorporated herein; that the Will was in all particulars executed as required by law;.that incorporated into said Will are the self-proving affidavits of the attesting witnesses in accordance with NRS 133.050.

5. Decedent's Will designates Petitioner, MOYA OLSEN LEAR, Executor, to serve without bond. Petitioner hereby consents to act as Executor, and to accept the trust of said office.

6. The Will makes reference to a Trust Agreement entitled "THE WILLIAM P. LEAR AND MOYA OLSEN LEAR FAMILY TRUST AGREEMENT"; and the beneficiaries named in said Trust Agreement are included and identified in Paragraph 7 of this Petition.

7. Under the terms and conditions of the Last Will and Testament of the Decedent and the terms and conditions of the WILLIAM P. LEAR AND MOYA OLSEN LEAR FAMILY TRUST AGREEMENT, the following named persons are designated as beneficiaries under said Trust and/or are, to the best of Petitioner's knowledge, information and belief, the sole heirs at law of Decedent:

NAME	AGE	RELATION TO DECEDENT	ADDRESS
MOYA OLSEN LEAR	Adult	Wife	Riverhouse, Verdi, Nevada 89439
MARY LOUISE ELLENBERGER	Adult	Daughter	1811 Harrison St. Maywood, Illinois 60153

WILLIAM POWELL LEAR, JR.	Adult	Son	26946 Dezahara Way Los Altos Hills, California 94022
SHIRLEY PATRICIA LOPEZ-PERREIRA LEAR CORMAN	Adult	Daughter	5244 Yarmouth St. Encino, California 91316
JOHN OLSEN LEAR	Adult	Son	4033 Acapulco Ave. Las Vegas, Nevada 89121
SHANDA LEAR BERTELLI	Adult	Daughter	Via Dei Colli Dzulla Farnesina 132 00194 Roma, Italia
DAVID RICHARD LEAR	Adult	Son	19555 Grandview St. Topanga, California 90290
VALENTINA MOYA LEAR JACKSON	Adult	Daughter	Lost Cabin Lysite, Wyoming 82642
PATRICK CHRISTOPHER LEAR	Minor	Grandson	32 Rte De Malagnow 1208 Geneva, Switzerland
SASKIA YOLANDE LEAR	Minor	Granddaughter	32 Rte De Malagnow 1208 Geneva, Switzerland
CHRISTIAN WILLIAM LEAR	Minor	Grandson	32 Rte De Malagnow 1208 Geneva, Switzerland
MARISSA LOPEZ-PERREIRA	Minor	Granddaughter	5244 Yarmouth St. Encino, California 91316

ERIC LOPEZ-PERREIRA	Minor	Grandson	5244 Yarmouth St. Encino, California 91316
CHRISTINE LOPEZ-PERREIRA	Minor	Granddaughter	5244 Yarmouth St. Encino, California 91316
MOYA LEAR	Minor	Granddaughter	612 El Corco Pacific Palisades, California 90272
JILL LEAR	Minor	Granddaughter	612 El Corco Pacific Palisades, California 90272
ALISON LEAR	Minor	Granddaughter	4033 Acapulco Ave. Las Vegas, Nevada 89121
JACQUELINE LEAR	Minor	Granddaughter	4033 Acapulco Ave. Las Vegas, Nevada 89121
MARA BERTELLI	Minor	Granddaughter	Via Dei Colli Dzulla Farnesina 132 00194 Roma, Italia
VANESSA BERTELLI	Minor	Granddaughter	Via Dei Colli Dzulla Farnesina 132 00194 Roma, Italia
CELESTE LEAR	Minor	Granddaughter	19555 Grandview St. Topanga, California 90290
JESSE LEAR JACKSON	Minor	Grandson	Lost Cabin Lysite, Wyoming 82642
JOY OLSEN PENDERGRAFT	Adult	Sister-in-Law	2626 N. Linwood Ave. Visalia, California 93277

JENNIFER LEAR	Adult	Grand-daughter	1743 Camino Lindo South Pasadena, California 91030
LORIN LEAR	Adult	Grand-daughter	1743 Camino Lindo South Pasadena, California 91030

8. The character and value of the assets of the estate of the Decedent, so far as known to Petitioner, consist of real and personal property which, Petitioner is informed and believes and therefore alleges have a value in excess of $60,000 and in such an amount as to necessitate a general rather than a summary administration thereof.

WHEREFORE, Petitioner prays that the said Will of Decedent be admitted to probate and that Letters Testamentary be issued to Petitioner; and that, for that purpose, a time be appointed for proving said Will; that all persons interested therein be notified according to law to appear at the time and place appointed therefor; and that all other necessary and proper orders be made in the premises.

DATED this 2 day of June, 1978.

HILL, CASSAS AND de LIPKAU
1 East Liberty Street
P.O. Box 2790
Reno, Nevada 89505

AND

ELI GRUBIC, ESQ.
180 West First Street
Reno, Nevada 89501

By /s/ Earl M. Hill
Earl M. Hill

Attorneys for Petitioner

STATE OF NEVADA)
) SS.
COUNTY OF WASHOE)

MOYA OLSEN LEAR, being first duly sworn upon oath, deposes and says: That she is the Petitioner named above; that she has read the foregoing Petitioner for probate of will and for Letters Testamentary and knows the contents thereof; that the same is true of her own knowledge, except as to those matters therein expressly stated upon information and belief; as to the latter, she verily believes the same to be true.

/s/ Moya Olsen Lear
MOYA OLSEN LEAR,
Petitioner

SUBSCRIBED AND SWORN to
before me this 2 day of June, 1978.

/s/ Earl M. Hill
Notary Public

[SEAL] EARL M. HILL
Notary Public – State of Nevada
Washoe County
My Commission Expires Oct. 11, 1978

CODE: 3540

DAVID J. REESE, ESQ.
Nevada Bar No. 770
COOKE, ROBERTS and REESE, LTD.
421 Court Street, P.O. Box 2229
Reno, Nevada 89505
Telephone: (775) 329-1766
Attorneys for Petitioners

IN THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

oOo

IN THE MATTER OF THE ESTATE OF WILLIAM POWELL LEAR, also known as WILLIAM P. LEAR, W.P. LEAR and BILL LEAR,

Deceased. /

Case No. PR78-2800

Dept. No. 7

PETITION FOR INSTRUCTIONS

(Filed Jun. 9, 2004)

JAMES L. MURPHY, RICHARD ROWLEY and HAROLD DAYTON, the Co-Trustees of the William Powell Lear Family Trust "B", hereby petition the Court for advice and instructions as follows:

1. That the Petitioners are the duly qualified and acting Trustees of the Lear Family Trust "B" having been confirmed by Order of this Court entered January 13, 1983.

2. That on the 2nd day of December, 1991, the above-entitled Court entered its "Order Interpreting Trust

Instrument and Instructing Trustees." Said Order provided that " . . . for the purpose of accounting, the Trustees divide the trust assets into the various percentage interests of the Beneficiaries, but make no distribution of non-cash assets, until such time as the non-cash assets, or portions thereof, are reduced to cash and the expenses attributable to the particular assets are paid." Said Order further provided that " . . . Trustees shall exercise complete management and control of the various percentage interests of the beneficiaries in Trust assets until such assets, or portions thereof, are converted to cash and the cash distributed as provided in the Petition, the Supplement thereto, and the Trust Agreement."

3. The Court has been petitioned by the Trustees to approve the 15th and 16th Intermediate accountings, subject to the on-going independent audit currently underway, as ordered by the Court.

4. During the past few months, two persons, who are possibly contingent, remainder beneficiaries, Patrick Christopher Lear and Christian William Lear, have requested the Court to postpone the approval of the 15th and 16th Intermediate Accountings, and have demanded that the Trustees provide them, personally, with extensive trust information and documentation, financial, legal and otherwise. The request, if met, would furnish these individuals with information which they are not entitled to under either the Trust Agreement or applicable law, and would be both burdensome and expensive for the Trustees to respond to, as demanded.

5. It should be noted that neither Patrick or Christopher Lear are mentioned by name nor, specifically identified, in the Lear Trust instruments.

6. Patrick and Christian Lear were invited to meet with the Trustees to discuss their beneficial interests in the Trust and request for information and documents, and other concerns they might have about the Trust administration, and to provide documentation to prove their right to any trust information. They refused the invitation to meet with the Trustees until they received all of the information and documents they had demanded.

7. The Trustees have requested certain identification, and authenticity information regarding all of the contingent remainder beneficiaries. Patrick and Christopher Lear have refused to furnish the Trustees with any of the information they have requested and have responded to the Trustees' request with refusal, insults and outrageous accusations. (See letter from David Reese, Esq. to Patrick and Christopher Lear, dated 5/13/04 and the response letter from Patrick and Christopher dated 5/25/04 attached hereto)

8. It should be noted that there have been false claims, by other "would be" trust beneficiaries who were not truly beneficiaries. It is reasonable and proper that the Trustees should be permitted to require any persons claiming to be trust beneficiaries to establish their true identity and beneficial interest in the Trust.

9. Assuming for argument, that Patrick and Christopher Lear are willing and able to establish that they are "Contingent Remainder Beneficiaries" with no vested beneficial interest or "present enjoyment interest", do they have standing to object to the Trust Accountings, and if so, what is their objection?

10. The Court has provided for an independent audit procedure which is yet another additional safeguard

beyond the annual accountings which were specially ordered and required of this inter vivos private trust. These annual accountings are neither required under Nevada Statute, nor the Living Trust Agreement.

11. If each of the Trust beneficiaries, even contingent remainder beneficiaries, are permitted to make burdensome requests for information and documentation pertaining to all Trust transactions and business, including those which took place in years past, and which have been set forth in accountings to the Court and approved by final Order of the Court, then clearly, the cost of administration of the Trust would be greatly increased and the very purpose and reason for a Trust entity, frustrated.

WHEREFORE, Trustees pray for an Order instructing and advising Trustees regarding the following:

1. The Trustees' right and responsibility for determining the authenticity and identity of the Trust beneficiaries

2. The right of the Trustees to refuse any information or accounting to those persons who do not comply with a reasonable request for information by the Trustees.

3. The right of the Trustees to refuse unreasonable and burdensome requests for Trust information and documentation beyond that reasonably required to show that a beneficiary is obtaining the trust income or advantages which the Trustor/Settlor intended said beneficiary to receive.

DATED this 9th day of June 2004.

COOKE, ROBERTS and REESE, LTD.

By: /s/ David J. Reese
David J. Reese, Esq.
Attorney for Trustees

/s/ James L. Murphy
JAMES L. MURPHY, Trustee

/s/ Richard B. Rowley
RICHARD B. ROWLEY, Trustee

/s/ Harold P. Dayton
HAROLD P. DAYTON, Trustee

VERIFICATION

Under penalty of perjury, the undersigned declare that they are the Petitioners of the foregoing Petition and know the contents thereof; that the pleading is true of their own knowledge, except as to those matters stated on information and belief, and that as to those matters they believe them to be true.

/s/ James L. Murphy
JAMES L. MURPHY

/s/ Richard B. Rowley
RICHARD B. ROWLEY

/s/ Harold P. Dayton
HAROLD P. DAYTON

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

BEFORE THE HONORABLE PETER I. BREEN, DISTRICT JUDGE

IN THE MATTER OF THE ESTATE OF WILLIAM P. LEAR.	Case No. PR78-2800 Dept. No. 7

HEARING

JULY 30, 2004

Reno, Nevada

(Filed Aug. 20, 2004)

[2] APPEARANCES

For the Trustees Estate of William P. Lear:	DAVID J. REESE, ESQ. COOKE, ROBERTS & REESE 421 Court Street Reno, Nevada 89505
For the Estate of Moya Olsen Lear:	JOHN B. GALVIN, ESQ. McDONALD, CARANO, WILSON 100 West Liberty Street Reno, Nevada 89505
For Christian Lear and Patrick Lear:	In Propria Persona
For Shanda Lear Baylor:	PATRICK JAMES MARTIN, ESQ. 115 Ridge Street Reno, Nevada 89501

* * *

[27] MR. REESE: Yes, at this point I'm asking him –

THE COURT: Okay.

MR. REESE: The trustees have asked them to cooperate in furnishing evidence that is conclusive, and they have simply failed and refused to do so.

THE COURT: Well, that goes back to my question of how much discovery's been taken. You said you could go ahead with this hearing. I will, it may be simpler to handle this issue outside of a court hearing. But – we are going to get into where Mr. Lear was at the time you were conceived, where your mother was, we can get into all of that evidence. We can get into a requirement for blood tests. I will order all that. Modern times makes it a lot easier to establish lineage than the old-fashioned way of bringing up a hundred witness.

MR. REESE: Your Honor, just as an offer of proof, the research that I have done, just as an offer of proof, the research that I have done indicates that it is very clear that the adoption by John Hale does away with his interest.

THE COURT: I wasn't, we were talking about something else.

MR. REESE: Okay. I understand.

THE COURT: If you are disputing lineage, tell me now, and I will order blood tests.

MR. REESE: I don't think the Court ought to go to that extent. That's, I wouldn't want to put the trust to that [28] expense. I feel that it is likely that they would be able to produce birth certificates and evidence to indicate that William Lear, Jr., was their father.

THE COURT: Okay. That's established in this court. It is so ordered. I find that fact.

Now we just have a legal question, did the adoption destroy the petition.

MR. REESE: That's correct.

THE COURT: That simplifies the case a lot, okay?

MR. PATRICK LEAR: Yes, sir.

THE COURT: Step down, and we are going to start again here.

So now we have a legal issue. Does the adoption – there's no question that this adoption occurred, right, gentlemen?

MR. PATRICK LEAR: Yes, that's correct, sir.

MR. CHRISTIAN LEAR: Yes, that is correct.

THE COURT: And the papers are here, are they?

MR. REESE: No, I don't have the papers anyway.

THE COURT: Well, let's see if we can establish this. Did the adoption occur in Switzerland?

MR. PATRICK LEAR: Yes, sir.

MR. CHRISTIAN LEAR: Yes, Your Honor.

THE COURT: So I would say there are – and how old were you when the adoption occurred?

* * *

The Honorable Judge Peter I. Breen
Department 7
75 Court Street
Reno, NV 89501

Re: Approval of Stead Property Contamination Settlement Agreement (Settlement Agreement) in the Matter of the Estate of William Powell Lear

Dear Judge Breen:

We the undersigned beneficiaries would like to express our strong support for this Court's immediate approval of the above mentioned Settlement Agreement. This agreement is the result of good faith negotiations that have been ongoing for *10 full years* (the contamination issue was first brought to fight in 1994) between the United States, the City of Reno, the Airport Authority of Washoe County and the two Lear Trusts.

On October 27, 2004, Judge Hardesty approved this agreement on behalf of the Moya Olsen Lear Trust. It should be noted that Judge Hardesty deemed this agreement as vital to the beneficial interests of both Lear Trusts.

We, the undersigned beneficiaries, are extremely concerned about the consequences of a possible delay in your approval of this agreement that our trustees, attorneys, and consultants have been fighting so long and hard to accomplish.

We understand that the two contingent remainder beneficiaries objecting to the Stead Property Contamination Agreement (Patrick Christopher Lear and Christian William Lear Hale) have other unrelated issues currently before this court. This letter does not attempt to address the issues they have raised. However, it does seem that they are (not so subtly) attempting to hold this agreement hostage until their other unrelated issues are addressed including an outrageous demand for $25,000 as compensation for their time in lodging various recent (in our opinion, frivolous) contests against the Trustees.

In essence, these two contingent remainder beneficiaries have taken the position that their "consent" is required for approval of the Stead Contamination Agreement. Under the terms of the William P. Lear Trust Agreement, the Trustees have, since the inception of the Trust, had broad authority to act on matters such as these *without* consent from any of the beneficiaries.

It should be noted that Christian William Lear Hale may in fact have no beneficial interest whatsoever in the William P. Lear Family Trust if it is determined that his adoption has disenfranchised him. In the unlikely event that both Patrick and Christian are found to have a beneficial interest after their father dies, their combined interest is neither sizeable nor sufficient enough to indemnify the other Trust beneficiaries if this Settlement Agreement fails and the Trust is subject to a much greater liability on the contamination clean-up.

We again respectfully urge you to request that a bond, security or other equitable remedy be imposed upon them if this matter is delayed because of their objections.

We respectfully urge you to address this important matter and the other various pending matters that have been submitted to the Court, including the Trustees Petition for Instructions and the Petition for Reconstruction of the Board. Until these matters are resolved, the Trustees are most reluctant to proceed with any further income distributions or ongoing trust business (including land sales).

In summary, we the undersigned, believe that the Stead Contamination Settlement Agreement is in the best interest of *both* Lear Trusts, subject only to Court approval. We urge you, Judge Breen, to join with Judge Hardesty, in exercising your authority to approve this long fought for settlement agreement.

/s/ David Lear
David Lear

William P. Lear, Jr.

Mary Louise Ellenberger

/s/ Moya Tsatsos
Moya Tsatsos

/s/ Jill D. Lear
Jill Lear

Jacqueline Lear

/s/ Celeste Lear
Celeste Lear

/s/ Saralo MacGregor
Saralo MacGregor

/s/ Jesse Jackson
Jesse Jackson

Chloe Jackson

Lorin Davis Lear

Mara Bertelli
Saskia Gem-

/s/ Tina Lear 11/5/04
Tina Lear

Pat Lear, Esq.

Joy Olsen Surbey

Shanda Lear-Baylor

Allison Lear

Vanessa Bertelli, Esq.

/s/ Erin Lear
Erin Lear

Eric Lear

Luke Jackson

Jennifer Lear

/s/ Marisa Eckelberry
Marisa Eckelberry

Valente Bertelli

5 November 2004

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Department 7
75 Court Street
Reno, NV 89501

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I am extremely concerned about the consequences of a possible delay in your approval of this agreement that our trustees, attorneys, and consultants have been fighting so long and hard to accomplish.

I understand that the two contingent remainder beneficiaries objecting to the Stead Property Contamination Agreement (Patrick Christopher Lear and Christian William Lear Hale) have other unrelated issues currently before this court. This letter does not attempt to address the issues they have raised. However, it does seem that they are (not so subtly) attempting to hold this agreement hostage until their other unrelated issues are addressed including an outrageous demand for $25,000 as compensation for their time in lodging various recent (and, in my opinion, frivolous) contests against the Trustees.

In essence, these two contingent remainder beneficiaries have taken the position that their "consent" is required for approval of the Stead Contamination Agreement. Under the terms of the William P. Lear Trust Agreement, the Trustees have, since the inception of the Trust, had broad authority to act on matters such as these *without* consent from any of the beneficiaries.

It should be noted that Christian William Lear Hale may, in fact, have no beneficial interest whatsoever in the William P. Lear Family Trust if it is determined that his adoption has disenfranchised him. In the unlikely event that both Patrick and Christian are found to have a beneficial interest after I, their father, die, their combined interest is neither sizeable nor sufficient enough to indemnify the other Trust beneficiaries if this Settlement Agreement fails and the Trust is subject to a much greater liability on the contamination clean-up.

I respectfully urge you to request that a bond, security or other equitable remedy be imposed upon them if this matter is further delayed because of their objections.

I respectfully urge you to address this important matter and the other various pending matters that have been submitted to the Court, including the Trustees Petition for Instructions and the Petition for Reconstruction of the Board. Until these matters are resolved, the Trustees are most reluctant to proceed with any further income distributions or ongoing trust business (including land sales).

In summary, I the undersigned, believe that the Stead Contamination Settlement Agreement is in the best interest of *both* Lear Trusts, subject only to Court approval. I urge you to approve this long fought for settlement agreement.

/s/ William P. Lear, Jr.
William P. Lear, Jr.

The Honorable Judge Peter I. Breen
Department 7
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Reno, NV 89501

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We, the undersigned beneficiaries, are extremely concerned about the consequences of a possible delay in your approval of this agreement that our trustees, attorneys, and consultants have been fighting so long and hard to accomplish.

We understand that the two individuals objecting to the settlement have other unrelated issues currently before this court. This letter does not attempt to address those issues. However, it does seem that they are (not so subtly) attempting to hold this agreement hostage until their other unrelated issues are addressed including an outrageous demand for $25,000 as compensation for their time in lodging contests against the Trustees.

We respectfully urge you to address this important matter and the other various pending matters that have been submitted to the Court, including the Trustees Petition for Instructions and the Petition for Reconstruction of the Board. Until these matters are resolved the Trustees are most reluctant to proceed with any further income distributions or ongoing trust business (including land sales).

It appears that these two contingent remainder beneficiaries (one of which may have no beneficial interest whatsoever if his adoption has disenfranchised him) have taken the position that their "consent" is required when in fact the Trustees have authority to litigate and settle Trust matters. We do not believe that their consent is either necessary or required under the Trust Agreement. Even if these two contingent remainder beneficiaries (Patrick Christian Lear and Christopher William Lear Hale) have a beneficial interest after their father dies, then their interest is neither sizeable nor sufficient enough to indemnify the other Trust beneficiaries if this Settlement Agreement fails and the Trust is subject to a much greater liability on the contamination clean-up. We again respectfully urge you to request that a bond, security or equitable remedy be imposed upon them if this matter is delayed because of their objections.

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Mary Louise Ellenberger

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Celeste Lear

Saralo MacGregor

Jesse Jackson

Chloe Jackson

Lorin Davis Lear

Tina Lear

/s/ Pat Lear, Esq.
Pat Lear, Esq.

Joy Olsen Surbey

Shanda Lear-Baylor

Allison Lear

Vanessa Bertelli, Esq.

Erin Lear

Eric Lear

Luke Jackson

Jennifer Lear

Marisa Eckelberry

Mara Bertelli
Saskia Gem-

Valente Bertelli

IN THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

BEFORE THE HONORABLE
PETER I. BREEN, DISTRICT JUDGE

IN THE MATTER OF THE ESTATE OF WILLIAM P. LEAR. :	Case No. PR78-2800 Dept. No. 7
IN THE MATTER OF THE ESTATE OF MOYA OLSEN LEAR. :	Case No. PR02-00064

PETITION FOR CONFIRMATION OF SETTLEMENT
(William P. Lear)

ANNUAL ACCOUNTING
(Moya Olsen Lear)

NOVEMBER 10, 2004

Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

SUNSHINE REPORTING SERVICES
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[2] APPEARANCES

For the Trustees Estate of William P. Lear:	DAVID J. REESE, ESQ. COOKE, ROBERTS & REESE 421 Court Street Reno, Nevada 89505
For the Estate of Moya Olsen Lear:	JOHN B. GALVIN, ESQ. McDONALD, CARANO, WILSON 100 West Liberty Street Reno, Nevada 89505

For Christian Lear and Patrick Lear:	In Propria Persona
For Shanda Lear Baylor:	PATRICK JAMES MARTIN, ESQ. 115 Ridge Street Reno, Nevada 89501

[3] RENO, NEVADA, WEDNESDAY,
NOVEMBER 10, 2004, 8:15 A.M.

– o0o –

THE COURT: And now the two Lear estates.

MR. GALVIN: Good morning, Your Honor.

MR. REESE: Good morning, Your Honor.

THE COURT: If you will identify yourselves for the record, please.

MR. REESE: Your Honor, David Reese. I'm here on behalf of the trustees of the William P. Lear Trust B. And both of my clients are present in court today, Tommy Tucker and James Murphy.

MR. GALVIN: John Galvin on behalf of the estate of Moya Lear.

MR. PATRICK LEAR: Good morning, Your Honor. Patrick Lear.

MR. CHRISTIAN LEAR: Good morning, Your Honor. Christian William Lear.

MR. MARTIN: Good morning Your Honor. Patrick James Martin of Reno, Nevada, on behalf of Mrs. Shanda Lear Baylor.

THE COURT: First, this affects all parties in some way. Miss Gullihur has an envelope containing what appears to be signatures of most of the people who stand, who benefit in any way from the Lear estates urging me, I believe, to approve [4] the settlement. I don't know where it came from, but it's on Miss Gullihur's desk.

Have you seen this?

MR. REESE: Yes, Your Honor. I have received a copy of that the other day. It's my understanding that there's only two beneficiaries who have opposed it, and those being –

THE COURT: I thought that was it. I'm glad you confirmed that.

Have you seen it, Mr. Galvin?

MR. GALVIN: No, I haven't, Your Honor, but I have heard about it, and know the contents of the letters.

THE COURT: Okay. And secondly, I have in my possession the settlement document as modified. Mr. Galvin has been kind enough to provide us with a copy that has been, let's call it amended, in red writing and scratching out certain areas of the agreement that are to be deleted.

That's right, isn't it, Mr. Galvin?

MR. GALVIN: Yes, Your Honor. And that's the Hartford Insurance settlement agreement. And there's two settlement agreements before the Court, and that's one of them, and the environmental agreement with the airport and the city of Reno.

* * *

November 16, 2004

The Honorable Peter I. Breen
Department 7
2nd Judicial District Court
75 Court Street
Reno, NV 89501

Re: Ongoing Litigation in the Matter of the Estate of William P. Lear

Dear Judge Breen:

We, the undersigned beneficiaries of the William P. Lear Family Trust, are much relieved that the Settlement Agreement in the above-mentioned matter has been approved by both you and Judge Hardesty. We are truly grateful for your efforts and decisive action in this regard.

We remain concerned, however, over the ongoing efforts by three members of the family to disrupt the orderly operations of Lear Family Trust. These efforts to disrupt include multiple legal actions made by Shanda Lear-Baylor, an income beneficiary, and multiple legal actions of Patrick Christopher Lear (remainderman) and Christian William Lear Hale (questionable remainderman).

It appears to us that Shanda Lear-Baylor again wants to insinuate herself into a position of micro-managing the Trust. She believes that she has a right to appoint trustees, basing her case principally on the fact that many years ago she was given the opportunity to participate in the appointment of Trustees when the original trust was bifurcated. In this regard, we wish to state that we are not seeking the right to appoint trustees, nor do we think it wise for beneficiaries to attempt to micro-manage the affairs of the Trust.

As to Patrick and Christian, It appears that they have multiple axes to grind, none of which we either agree with or approve of. In fact, we are perplexed, annoyed and disturbed at the chaos these efforts have caused. This chaos arises from the divergent, unwise, unfounded, and what we believe to be, self-serving, interests of these same family members. Their attacks seem focused on discrediting Trustee Jim Murphy's honesty, integrity and professional ability.

For the record, the current assets of the Lear Family Trust consist mainly of a brokerage account and a small amount of land that is left at Stead. We believe that Trustees Jim Murphy and Tommy Tucker already have the legal authority to manage these assets of the Trust and that they also have the legal authority, granted under the guidelines of the Trust, to appoint a third Trustee.

It is a distressing fact that the actions brought by Patrick and Christian and those recently brought by Shanda, have, so far, cost the Trust over $30,000 in legal fees. Compounding this financial drain on the Trust's limited resources, the immediate result of these multiple challenges to the Trustees is that they have been left with no course other than to effectively put all Trust business matters on hold pending Court resolution. This includes bill paying, disbursement of monthly checks to beneficiaries and following through with pending land sales and other Trust matters. This is a dangerous situation and has placed a huge burden on the finances of many of the beneficiaries who rely almost entirely on the monthly income from the Trust they receive for their subsistence.

We would respectfully submit to Your Honor that we find no meaningful, justifiable, or redeeming arguments in the various legal challenges that have effectively brought the operation of the Trust to its knees.

We therefore respectfully plead for your assistance in resolving these matters so that the Trust may resume normal operations and so that our remaining assets will not be squandered by the frivolous actions of these decidedly litigious beneficiaries, one of whom may in fact have no legal claim whatsoever.

Sincerely Yours,

/s/ Pat Lear, Esq.
Pat Lear, Esq.

/s/ David Lear
David Lear

/s/ Moya Tsatsos
Moya Tsatsos

Bill Lear

/s/ Tina Lear
Tina Lear

/s/ Jill D. Lear
Jill Lear

Cc: Pam Gulliher, Probate Commissioner

IN THE SUPREME COURT OF THE STATE OF NEVADA

Christian William Lear, Appellant, vs. ESTATE OF WILLIAM POWELL LEAR, Respondent.	)	**No. 44768**

Appeal from a District Court Order of January 20, 2005, Ordering that Christian William Lear has no beneficiary interest in the Estate of William P. Lear; Second Judicial District Court; Dept. 7; Case No. PR78-2800.

APPELLANT'S SUPPLEMENTAL EVIDENCE AND AUTHORITIES TO OPENING AND REPLY BRIEFS

(Filed May 4, 2006)

Christian William Lear
1805 North Carson Street, Suite D
Carson City, Nevada 89701
(775) 721-9643
(775) 884-4211
In Propria Persona

Appellant

David J. Reese, Esq.
Nevada Bar No. 770
COOKE, ROBERTS & REESE, Ltd.
421 Court Street, P.O. Box 2229
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(775) 329-1766

Attorney for Respondent

APPELLANT'S SUPPLEMENTAL EVIDENCE AND AUTHORITIES TO OPENING AND REPLY BRIEFS

Comes now, Christian William Lear, Appellant, appearing in *propria persona*, pursuant to NRAP 31(d), and states as follows:

SUPPLEMENTAL EVIDENCE

These Supplemental Authorities are filed to supplement Appellant's Opening Brief[1] and Appellant's Reply Brief.[2]

On April 21, 2006, in case PR#78-2800, lower Court Judge Peter I. Breen entered an *Order Declaring Interest of Remainder Beneficiaries*, of which Appellant is one. See Appellant's Appendix attached hereto, pages 1 and 2. Said Order states:

> "**Based upon** the Briefs submitted by the parties, the arguments of counsel and parties, and **all the papers, pleadings, and orders entered in this matter; and** based **upon the language of the Lear Family Trust Agreement, the Court concludes** that the better policy for Nevada law is the early vesting of interest in a trust; henceforth and hereafter, good cause appearing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, **that the interest of the Remainder Beneficiaries of the Lear Family Trust described in Article Fifth (b)**

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[1] p.11 lines 14-19; p.12 lines 13-26, p.13 lines 1-26; p.19 lines 18-21; p.24 lines 4-8.

[2] p.2 lines 17-21; p.6 lines 7-11; p.7 lines 11-18; p.12 lines 20-22; p.15 line 26 and p.16 lines 1-11; p.24 line 14-15.

therein as "lawful issue", is declared to be vested subject to defeasance." [Emphasis added]

Respectfully submitted this third day of May 2006.

/s/ Christian William Lear
Christian William Lear,
Appellant, *In Propria Persona*
1805 North Carson Street,
Suite D
Carson City, Nevada 89701
Tel: 775-721-9643
Fax: 775-884-4211

IN THE SUPREME COURT OF THE STATE OF NEVADA

Christian William Lear,)
Appellant,)
)
vs.) **No. 44768**
ESTATE OF WILLIAM POWELL LEAR,)
)
Respondent.)

Appeal from a District Court Order of January 20, 2005, Ordering that Christian William Lear (Hale) has no beneficiary interest in the Estate of William P. Lear; Second Judicial District Court; Dept. 7; Case No. PR78-2800.

APPELLANT'S PETITION FOR REHEARING

Christian William Lear
1805 North Carson Street,
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In Propria Persona

Appellant

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Attorney for Respondent

APPELLANT'S PETITION FOR REHEARING

Comes now, Christian William Lear, Appellant, appearing in *propria persona*.

This State Supreme Court entered its final order and determination on July 6, 2006. This Petition for Rehearing is timely filed pursuant to NRAP 40.

In its Order of July 6, 2006, this Supreme Court misconstrued essential facts and ended up with a clearly erroneous conclusion of law. This results in the Court and the State of Nevada substituting its will for the will of the Testator, William P. Lear, Sr. (WPLSr) in violation of the principles of law regarding trusts and inheritance. It also results in Lear Family Trust (LFT) beneficiary Christian William Lear being totally alienated from the LFT and completely deprived of receiving any of his valuable inheritance from his biological grandfather as well as prejudicing and abrogating his right to inherit from any other member of the Lear family.

I. Clear Factual Errors & Failure to Take Due Consideration of Essential Facts

In its Order of July 6, 2006 (Order), this Court states "the district court held that Christian [Appellant] was no longer the lawful issue of Lear Jr. [WPLJr] as a result of Christian's foreign adoption." This is contrary to the facts of the case. On July 30, 2004, the lower Court ordered that Appellant's father is in fact WPLJr. Appendix at 186-187 (hereafter referred to as App. at ___). In its Order of January 20, 2005 alienating Appellant from his rights to and under the Testamentary Trust of WPLSr, the lower Court failed to provide any conclusions of fact and law. The Court below recognized Appellant's lineage to be LFT testator WPLSr through WPLJr. Appellant's Reply Brief (ARB) at 13:20-25 & 14:1-3.

Prior to his decease, WPLSr owned significant property in fee simple absolute. WPLSr had and retained the right to possess, use, enjoy, and dispose of his fee simple absolute property up until the time that he died. In contemplation of his decease, WPLSr concurrently executed his Last Will and Testament and created the LFT.

In his Last Will and Testament, WPLSr stated: "I give, devise and bequeath all the rest, residue and remainder of my estate of whatsoever nature and wheresoever situated to Sam Auld, Milton Weilenmann and Fran D. Jabara, as Trustees under that certain revocable trust executed by me . . . " App. at 89. As defined by Black's Law Dictionary Third Edition, the words "Give and bequeath in a will, import a benefit in point of right, **to take effect upon the decease of the testator** and proof of the will, unless it is made in terms to depend upon some contingency or condition precedent." [Emphasis added]. ARB at 14:4-9; App. at 140:22-25. Neither WPLSr's Last Will and Testament, nor the LFT include such contingency or condition precedent. Remainder is defined as "the remnant of an estate in land [and property], **depending upon a particular prior estate created at the same time and by the same instrument**, and limited to arise immediately on the determination of that estate, and not in abridgment of it." 4 Kent Commentaries on American Law (Kent Com.) 197. [Emphasis added]. Appellant's Supplemental Authorities to Reply Brief (ASARB) at 2:14-23.

On May 14, 1978, upon WPLSr's decease, WPLSr's Last Will and Testament, by incorporating the LFT, simultaneously created the Outright beneficiaries' right to 28% of the remainder *corpus* property, the Remaindermen beneficiaries' right to 72% of the remainder corpus property, and the right of the Income beneficiaries to take only their respective percentage of the "net income" thereon[1]. See LFT, Article FOURTH(a) and FIFTH(b), App. at 72:8-12 & 74:18-27. At the time of his decease, the legal title to WPLSr's *corpus* estate was transferred to his three (3) Trustees, the equitable title and conditional interest in the corpus property was vested in the Outright and Remaindermen beneficiaries who were to receive it in their respective proportions at the final closing and distribution of the Trust. While the LFT Outright and Income beneficiaries have estates in possession on their specified percentage of net income, LFT Outright and Remaindermen beneficiaries have an estate in conditional expectancy called a remainder. See 2 Blackstone Commentaries on the Laws of England (Bl. Com.) 163. The two interests, *corpus* and income are in fact only one estate. These Trust Estate interests are divided by specified percentages to three classes of beneficiaries. Remaindermen were vested with the Trust Estate *corpus.* Income beneficiaries were vested with the annual net income produced by the use of the *corpus*, if any. Outright beneficiaries were vested with both a percentage of the *corpus* and annual income. Under the LFT, each vested interest or gift is restricted to some particular heir(s) exclusive of others and is as such, conditional.

WPLSr deceased on May 14, 1978 at which time his property vested to the LFT's *corpus* beneficiaries, of which Appellant is one. On June 5, 1978, WPLSr's wife, executrix and co-grantor of the LFT filed a *Petition for Probate*

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[1] "The whole estate passes at once from the grantor to the grantees, and the remainder-man is seised of his remainder at the same time that the termor is possessed of his term. The enjoyment of it must indeed be deferred till hereafter; but it is to all intents and purposes an estate commencing in praesenti, though to be occupied and enjoyed in futuro." 2 Bl. Com. 166

of Will and For Letters Testamentary (Petition for Probate). App. at 85-88, Appellant's Opening Brief (AOB) at 2:13-16. The Petition for Probate states:

> "6. The Will makes reference to a Trust Agreement entitled The William P. Lear and the Moya Olsen Lear "Family Trust Agreement"; and the beneficiaries named in said Trust Agreement are included and identified in Paragraph 7 of this Petition. 7. Under the terms and conditions of the Last Will and Testament of the Decedent and the terms and conditions of the William P. Lear and Moya Olsen Lear Family Trust Agreement, the following named persons are designated as beneficiaries under said Trust and/or are, to the best of Petitioner's knowledge, information and belief, the sole heirs[2] at law of Decedent:. . . . ***Christian William Lear***, Minor, Grandson". App. at 86-87. See also Appellant's Supplemental Authorities to Opening Brief (ASAOB) at 1:4-12.

The Petition for Probate was granted by Order of the Court of June 26, 1978. App. at 96-97. The lower Court's Order was entered after the divorce of Appellant's biological parents and while co-grantor and executrix Moya Olsen Lear was still alive. By the Court's Order of June 26, 1978, Appellant's status, interests and rights in and to the Trust Estate of testator WPLSr was and is *res judicata. Valley Bank v. Neuhoff*, 102 Nev. 579, 729 P.2d 1346.

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[2] "Descent, or hereditary succession, is the title whereby a man on the death of his ancestor acquires his estate by right of representation. as his heir at law. **An heir therefore is he upon whom the law casts the estate immediately on the death of the ancestor**: and an estate, so descending to the heir, is in law called the inheritance." [Emphasis added] Blackstone's Commentaries on the Laws of England, Book II, page 201.

AOB 11:14-19 & 19:18-21; ARB 1:24-27. WPLSr did not die intestate and intended Christian William Lear, like his brother Patrick Christopher Lear (Patrick), Lorin Davis Lear (Lorin) and others to inherit valuable property by, through and under the Trust Estate. AOB at 2:13-16.

On September 8, 1978, as a result of its June 26, 1978 determination that Appellant is the heir of WPLSr and a beneficiary of the LFT and to secure Appellant's rights to due process of law, the lower Court appointed Charles E. Springer, Esq. (Springer) in accordance with NRS 136.200 to act as attorney for Appellant, an unrepresented minor and non-resident beneficiary of the LFT and heir of WPLSr. App. at 99-100, see also AOB at 4:5-9; ASARB at 1:4-9. The lower Court appointed Springer to represent Appellant to protect Appellant's vested rights and interests to the trust estate of WPLSr. This clearly shows that Appellant's remainder interest was distinct and separate from Appellant's biological father's income beneficiary's interest. This Court's statement that "the determination of whether Christian is a member of the class of Lear Jr.'s lawful issue must be made not at Lear Sr.'s death, but at Lear Jr.'s [WPLJr] death", is clearly contrary to the facts of the case and is erroneous. At the death of WPLJr, Appellant would only receive a percentage of the annual Trust income that was distributed to WPLJr, prior to his death. WPLJr does not have a vested right or interest in the Trust *corpus*, and as such, no *corpus* property would be conveyed to Appellant or to Appellant's brother and sisters at his decease. At the time of WPLJr's decease, his "lawful issue" become part of a distinct class known and described as Outright beneficiaries. Since May 14, 1978, Appellant has fundamental and vested rights in and to WPLSr's trust estate that are protected under the laws and Constitutions of the State of Nevada and of the United States, including but not limited to amendments IX and XIV.

On April 21, 2006, the lower State Court determined that: (1) the respective percentage interests in and rights to LFT *corpus* property was erroneously construed by the lower Court, (2) the Remaindermen or *Corpus* beneficiaries' interests in and rights to Trust Estate *corpus* property were vested as a matter of state law and that the public policy of the State of Nevada favors early vesting. Appellant's Supplemental Evidence and Authorities to Opening and Reply Briefs (ASEAORB) at 1:8-15. This State Supreme Court apparently failed to take due consideration of (1) the lower Court's Order, (2) Respondents repeated citation of cases conceding to early vesting, and (3) this Court's own citation of *In Re Liddle's Estate*, 328 P.2d 35 (1958). AOB at 13:3-26; ARB at 15:26 & 16:1-6. In *Re Liddle's Estate*, *supra*, the action involves the determination of title to certain trust assets upon the death of an income beneficiary who post-deceased the remainderman[3]. Although there are significant distinctions between Re Liddle's Estate and the case at bar, even the Liddle's Estate court confirmed that the law favors early vesting.

> "The law favors vested estates, and no remainder will be construed to be contingent, which may, consistently with the intention, be deemed vested.
>
> 4 Kent Com. 203.

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[3] While the issue in *In Re Liddle's Estate*, *supra*, was the determination of the "heirs-at-law" of the remainderman, not in issue here, the Court reaffirmed "the common law rule in favor of early vesting of title in remaindermen and the preference for vested rather than contingent remainders is firmly established in this state."

No clause delaying vesting exists in the LFT. AOB 12:21-26 & 13:1-26

The settlements available to WPLSr originated in the thirteenth century. They are (1) the fee simple absolute, given to or held by a specified person and his heirs, (2) the fee simple conditional, given to a person and the heirs, or some class of the heirs, of his body, and (3) the estate for life[4]. Of these three principal possibilities, WPLSr disposed of his property in fee simple conditional, given to a person and the heirs, or some class of the heirs, of his body. On the subject, Sir William Blackstone explains:

> Such a gift (to a man and the heirs of his body) was a gift upon condition, that it should revert to the donor, if the donee had no heirs of his body, but, if he had, it should then remain to the donee. They therefore called it a fee-simple, on condition that he had issue. Now we must observe, that, when any condition is performed, it is thenceforth intirely gone; and the thing, to which it was before annexed, becomes absolute, and wholly unconditional.
>
> William Blackstone, Commentaries on the Laws of England, Book II, p.110

When WPLJr had issue (children) out of lawful marriage, WPLSr willed and gave to his grandchildren the Trust Estate *corpus*. Principal income beneficiary WPLJr was to receive only the net income produced by the remainder corpus that was and is vested in Appellant and

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[4] Frederick Pollock and Frederic William Maitland, *The History of English Law*, Second Edition, (Cambridge University Press) Vol. 2, p.20 – Second Ed. 1898, reprinted 1911, 1923, 1952, 1968, 1978.

Appellant's brother and sisters who are also recognized "lawful issue" and lineal blood line descendants of WPLSr. *In Re Sheffler's Will*, 249 N.Y.S. 102, at 104 and 105 (1931). ARB 14:4-15.

This Court also failed to take due consideration that Appellant is vested as a matter of federal law. The LFT Trustees represent annually to the IRS, under penalty of perjury, that the LFT *corpus* is vested in the grandchildren remaindermen beneficiaries under the Trust. ARB at 1:21-24. The courts of the United States have already ruled that beneficiaries, as Appellant, who are skip persons under a trust are "vested" beneficiaries. *Comericā Bank, N.A. v. U.S.*, 93 F.3d 225 (6th Cir. 1996); See also 76 Am Jur 2d Supp Trusts, §273. See ASAOB at 5:12-24 and pages of the LFT's tax returns attached thereto.

WPLSr did not die intestate. WPLSr prepared a valid Last Will and Testament before he died and created a trust for his children and grandchildren. Appellant's rights to inheritance under the Last Will and Testament of WPLSr and under the LFT are derived directly from WPLSr. Under the LFT, the proper designation of Appellant and beneficiaries similarly situated under Article FIFTH is "lawful issue", *not* "heir". By citing *In Re Liddle's Estate*, *supra* and Restatement (Second) of Property (Donative Transfers) §29.1 (1988), this Court failed to take due consideration that "heir" has a very different meaning under the law and different implications and legal consequences from the LFT language of "lawful issue". ARB at 11:11-16 & 14:7. The *Liddle* case pertains to the "heirs" of the remainderman and that court stated "technical words in a will are to be taken in their technical sense . . . ". Neither WPLSr's will nor the LFT refer to Appellant as the *heir* of WPLJr, nor does the Trust extend past or outside of the "lawful issue" remainder grandchildren. The LFT refers to Appellant as the "lawful issue" of WPLJr, and that is the way that it was understood by the Trust Estate executrix and co-grantor, and the lower State Court. This Court appears to have misconstrued *In Re Liddle's Estate*, *supra* and misapplied the Restatement (Second) of Property (Donative Transfers) cited in its Order.

This Court failed to take due consideration of certain facts related to WPLSr's intent to have all of his grandchildren, including Appellant, inherit under the Trust estate. AOB at 10:25-26 & 11:1-13. In its Order, this Court, arguing against Appellant's contention that WPLSr's intent was for all of his natural grandchildren to inherit, the Court erroneously states that to express such an intent, WPLSr "could have used the language "bodily issue," "natural issue," "natural heirs," or "issue of the primary beneficiary's body," or a number of other terms. . . ." WPLSr's wording is more precise than that of the Court and adds another precondition to inheritance, namely that WPLSr's grandchildren be issued of a subsisting lawful marriage. Had WPLSr used the incomplete wording proposed to state his intent for all grandchildren to inherit, the inheritance would have failed as the class of grandchildren could never close and the trust estate could never achieve finality when there always exists the possibility, however remote, of a secret illegitimate child lurking in the buried past of WPLJr. WPLSr's combination of requirements eliminated the possibility of any illegitimate grandchildren claiming an interest to and under the Trust Estate while expressing his intent for all of his grandchildren to inherit.

Another fact the Court failed to take into consideration with regards to WPLSr's intent for all of his grandchildren to inherit is the special case of John Olsen Lear (John) under the Trust Estate. AOB at 10:25-26 & 11:1-13. John was disowned by WPLSr and is effectively (civilly) dead under the LFT. NRS 134.110. In order to preclude only his son John from his legacy, but not his grandchildren through John, WPLSr named his four biological granddaughters through John to take under the LFT as both *corpus* and income beneficiaries. By the testator's acts and will, these current Outright beneficiaries have a right to a specific percentage of the annual income produced from the Trust Estate *corpus* property. These same Outright beneficiaries have a vested right to take a specified percentage of the Trust Estate *corpus* when it is finally distributed at a future time and in accordance with the Trust Estate instrument. Had WPLSr decided to exclude WPLJr from the LFT, like he did John Olsen Lear, Appellant and his siblings would have taken under the LFT in the same manner as WPLSr's natural granddaughters through John.

Finally, this Court failed to take due consideration of the LFT's Article SEVENTH, the anti-alienation clause, which precludes any beneficiary from alienating his rights to and under the Trust. AOB at 4:14-17 & 14:24-26 & 15:1-24; App. at 80; ARB at 12:7-15. Appellant cannot and did not intend to "alienate" himself from his grandfather's will or Trust. Of no less importance, The LFT Trustees are not authorized to directly or indirectly exclude, prejudice or confiscate Appellant's vested interests and rights, whether such an act be committed in breach of trust or under color of State law.

The class distinction and definition given to "lawful issue" by this Court is not only in error, it clearly replaces the will of the testator with its own. As a consequence, this Court's Order comes to a discriminatory and unjust result that confiscates and deprives Appellant of rights secured by the Constitution.

II. CONFLICT OF LAW – CONFISCATORY STATUTES

NRS 127.160[5], as interpreted and applied to this case, is a discriminatory statute that automatically results in an unjust confiscation of Appellant's right to property under color of state law. See also NRS 134.190. As a result of this State law, the Last Will and Trust Estate of WPLSr are voided, WPLSr is declared to have died intestate, and Appellant is unjustly prejudiced and precluded from inheriting from his grandfather, WPLSr and from any other Lear family member. The Orders of the State court with regards to Appellant have full force and effect in other States under the Constitution for the United States of America, Article IV, Section 1. This clause of the U.S. Constitution and the Orders of the Nevada Courts extend the alienation, abrogation, prejudice and confiscation of Appellant's rights to family relationships and to inherit from his lawful relatives to every other State in the United States. Under New York law, Appellant would be entitled to inherit from his natural sister Lorin, who now resides in that State. *Matter of Seaman*, 78 N.Y.2d 451 (1991). Appellant's brother Patrick and sister Lorin can inherit from each other. As a result of this Court's July 6, 2006 Order, Appellant is precluded from inheriting from any of them, by will or otherwise, and is deprived of the privileges and immunities afforded other citizens under the U.S. Constitution, Article IV, Section 2. See also *Corfield v. Coryell*, 6 Fed. Cas. 546 (1823). The Order of this State court is unjust, results in a confiscation under color of state law, and creates a conflict of law. U.S. Const. Art. IV, Sec.2. The confiscation of vested rights under color of State law was clearly explained in Chapter XI of Thomas Cooley's authoritative writing "*A Treatise On Constitutional Limitations Which Rest Upon The Legislative Powers of the States of the United States.*" In quoting Chancellor James Kent, Cooley states: "that such a statute, 'affecting and changing vested rights is very generally considered in this country as founded on unconstitutional principles, and consequently inoperative and void. . . .'"

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[5] NRS 127.160: " . . . The child shall not owe his natural parents or their relatives any legal duty **nor shall he inherit from his natural parents or kindred**. . . ." [emphasis added]

III. STATUTES IN CONTRAVENTION TO U.S. CONSTITUTION AND DISCRIMINATORY.

Among the rights which belong to all citizens are the rights to own, dispose and inherit property. U.S. Const., Art. IV, Sec.2 & Amend. XIV.

Whatever cloak or disguise it may assume, the Court Order deprives Appellant of his fundamental right to inherit, to justice and to equal protection of law under the fourteenth amendment to the U.S. Constitution. *Slaughter-House Cases*, 83 US 36 (1872), *Civil Rights Cases*, 109 US 3 (1883).

The Court Order retroactively deprives WPLSr of his fundamental right to dispose of his property. *Corfield v. Coryell*, *supra*, see also 1 Bl. Com. 134. In 1862, this right was recognized in part by the Nevada legislature which enacted what became NRS 133.020[6]. This Court retroactively voided WPLSr's Last Will, Trust Estate and rights to dispose of his property as he pleased, voided the provisions of NRS 133.020 which were in full force and effect at the time of WPLSr's decease and automatically confiscated and deprived Appellant of property without due process of law.

The State of Nevada and this Court substituted their will for the will of WPLSr by failing to take due consideration of essential facts, in direct conflict with the principles of inheritance and testaments which civilized societies established well before the Magna Carta, giving the right to a person of continuing his property after his death, in such persons as he shall name. 2 Bl. Com. 490. Appellant was named and recognized as a beneficiary of the Trust estate and heir of WPLSr by Order of the Court of June 26, 1978, and was vested with an equitably divided 10% interest in and right to future possession, use and enjoyment of the Trust Estate *corpus* property with, among others, his brother Patrick and sister Lorin.

In its determination, the Court must use the "strict scrutiny" standard. A statute which restricts "fundamental rights" or which contains "suspect classifications" is to be subjected to "strict scrutiny" and can be justified only if it furthers a compelling government purpose and, even then, only if no less restrictive alternative is available. *Regents of the University of California v. Bakke*, 438 U.S. 265, 357

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[6] NRS 133.020: "Every person of sound mind, over the age of 18 years, may, by last will, dispose of all his or her estate, real and personal, the same being chargeable with the payment of the testator's debts."

(1978), *San Antonio School District v. Rodriguez*, 411 U.S. 1 (1973), *Williams v. State*, 118 Nev. 536 (2002). "Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling. [citations omitted]." *Griswold v. Connecticut*, 381 U.S. 479 (1965). NRS 127.160 is unconstitutional as (1) it interferes with and penalizes Appellant's exercise of his constitutional right to inherit property from WPLSr and any other Lear family member, (2) automatically declares the testator, WPLSr to have died intestate in clear contravention of facts, (3) substitutes the will of the legislature over the will of the testator, and (4) creates a "suspect classification" that discriminates against Appellant which is not shown to promote a compelling governmental interest. *Shapiro v. Thompson*, 394 U.S. 618 (1969). The Order and statute also automatically displace, remove and confiscate the free will and acts of other Lear family members. Appellant is effectively civilly dead as far as the Lear family is concerned. Appellant has been reduced to an even lesser status than John who was excluded by the express stated intent of the testator[7]. LFT article FIFTH(b).

The statute, as applied, also automatically and totally annihilates Appellant's family relations without just cause or compelling state interest and in violation of the U.S. Constitution, Amendment IX. Appellant's interest in maintaining family relationships free from governmental interference is a fundamental right and any regulation designed to interfere with family relationships must be subjected to a test of whether "a compelling state interest" is advanced by regulation. *Roe v. Conn*, 417 F.Supp. 769 (1976), see also *Roe v. Wade*, 410 U.S. 113 (1973), *Dunn v. Blumstein*, 405 U.S. 330 (1972).

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[7] ARB at 11:7-16: "[i]ntention of testator as ascertained from words of will must be given effect rather than some other intention presumed from circumstances, but not expressed." *In Re Layton's Estate*, 19 P.2d 793 (1933).

The LFT's article SEVENTH, the anti-alienation clause was made part of the trust by WPLSr. AOB 14:24-26 & 15:1-26 & 16:1-6. NRS 127.160 caused the alienation of Appellant in violation of the LFT and created a suspect classification. There is no such classification in the LFT. The LFT's article NINTH, the *in terrorem* clause, prohibits the departure from existing classifications under the Trust and the creation of any new classifications. As seen above, there are only two rights under the LFT, the right to the LFT's net income and the right to *corpus*. The Outright beneficiaries (28%) have a right to both the net income of the Trust and the trust *corpus*, with which they are vested since May 14, 1978. The other corpus remaindermen beneficiaries (72%) are also vested since May 14, 1978. The guarantee of equal protection of law under the U.S. Constitution requires the government to treat similarly situated individuals in similar manner. *Jacobson v. Dept of Public Aid*, 664 N.E.2d 1024 (1996). The Court's application of the statute creates a suspect classification, fails to treat Appellant similarly to the vested Outright beneficiaries (28%) and vested Remaindermen beneficiaries (72%), deprives Appellant of equal protection of law and deserves constitutional condemnation under the U.S. Constitution, Amendment XIV. The will of the testator is supplanted by that of the State of Nevada, when there is no valid public policy that would grant such broad confiscatory powers to the State. *Regents of the University of California v. Bakke*, *supra*.

Once the right is vested, it is protected against arbitrary interference and the legislature is not competent to take it away[8]. The Court order is unconstitutional because it results in an absolute automatic and retrospective confiscation of Appellant's rights, severs and abrogates family relations, violates the Ninth and Fourteenth

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[8] "And it would seem that a right cannot be considered a vested right unless it is something more than a mere expectation, and has already become a title, legal or equitable, to the present or future enjoyment of property, or the present or future demand, or a legal exemption from a demand made by another. . . . As Chancellor Kent, speaking of retrospective statutes, says, that such a statute, 'affecting and changing vested rights, is very generally considered in this country as founded on unconstitutional principles, and consequently inoperative and void. . . .' "

"The expectation is not property; it cannot be sold or mortgaged; and it is not in any way taken notice of by the law until the moment of the ancestor's death, when the law of descents comes in, and for reasons of general policy transfers his estate to certain persons to the exclusion of others. It is not until that moment that there is a vested right in the person who becomes heir, to be protected by the constitution. . . ." (pgs. 359, 360, citations omitted)

"But a vested right of action is property in the same sense in which tangible things are property, and is equally protected against arbitrary interference. Where it springs from contract or from the principles of the common law, it is not competent for the legislature to take it away. Nor can a party by his misconduct forfeit such a right unless steps are taken to have the forfeiture declared in due judicial proceedings. Forfeitures of rights or property cannot be adjudged by legislative act, and confiscations without a judicial hearing and judgment after due notice would be void as not due process of law. . . . A statue which authorizes a party to seize the property of another, without process or warrant, and to sell it without notification to the owner, for the mere punishment of a private trespass, and to enforce a penalty against the owner, is unwarranted and void." (pgs. 362 – 364, citations omitted).

Thomas Cooley, *A Treatise On Constitutional Limitations Which Rest Upon The Legislative Power Of The States Of The United States*, Chapter XI

Amendments of the U.S. Constitution and the fundamental principles of justice.

WHEREFORE, Appellant respectfully requests that this Court enter its Order granting:

1. Appellant's Petition for Rehearing, and
2. Issue an Order reversing and vacating this State Supreme Court's Order of July 6, 2006, which in turn affirmed the lower Court's Order of January 20, 2005.
3. Issue an Order of this State Court declaring and adjudging that 127.160 and NRS 134.190 are void upon grounds that they are discriminatory and confiscatory statues that are contrary to the Constitution for the United States of America, Amendments IX and XIV.

Respectfully submitted this 24th day of July, 2006.

/s/ Christian William Lear
Christian William Lear,
In Propria Persona
Appellant